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Short Title: Asst. Living Req./AB.

(Public)

Sponsors:

Referred to:

March 28, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE LICENSING AND REGISTRATION OF ASSISTED
3 LIVING FACILITIES AND TO REPLACE THE ARCHAIC TERM
4 "DOMICILIARY" CARE WITH THE TERM "ADULT" CARE.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 14-32.2(c) reads as rewritten:

7 "(c) 'Health Care Facility' shall include hospitals, skilled nursing facilities,
8 intermediate care facilities, intermediate care facilities for the mentally retarded,
9 psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home
10 health agencies, ambulatory surgical facilities, and any other health care related facility
11 whether publicly or privately owned.

12 'Residential Care Facility' shall include ~~homes for the aged and disabled, family care~~
13 ~~homes, group homes for developmentally disabled adults, adult foster care homes, adult care~~
14 homes and any other residential care related facility whether publicly or privately
15 owned."

1 Sec. 2. G.S. 28A-25-6(f) reads as rewritten:

2 "(f) If no administrator has been appointed, the clerk of superior court shall
3 disburse the money received under this section for the following purposes and in the
4 following order:

- 5 (1) To pay the surviving spouse's year's allowance and children's year's
6 allowance assigned in accordance with law;
7 (2) Repealed by Session Laws 1981, c. 383, s. 3.
8 (3) Repealed by Session Laws 1981, c. 383, s. 3.
9 (4) All other claims shall be disbursed according to the order set out in G.S.
10 28A-19-6.

11 Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of
12 funds provided the deceased pursuant to G.S. 111-18 and Part 3 of Article 2 of Chapter
13 108A of the General Statutes of North Carolina, any lawful claims for ~~domiciliary-care~~
14 ~~received by~~ provided by an adult care home to the deceased, incurred not more than 90
15 days prior to his death. After the death of a spouse who died intestate and after the
16 disbursements have been made in accordance with this subsection, the balance in the
17 clerk's hands belonging to the estate of the decedent shall be paid to the surviving spouse,
18 and if there is no surviving spouse, the clerk shall pay it to the heirs in proportion to their
19 respective interests."

20 Sec. 3. G.S. 58-55-35(a) reads as rewritten:

21 "(a) Whenever long-term care insurance provides coverage for the facilities,
22 services, or physical or mental conditions listed below, unless otherwise defined in the
23 policy and certificate, and approved by the Commissioner, such facilities, services, or
24 conditions are defined as follows:

- 25 (1) 'Adult day care program' shall be defined in accordance with the
26 provisions of G.S. 131D-6(b).
27 (2) 'Chore' services include the performance of tasks incidental to activities
28 of daily living that do not require the services of a trained homemaker or
29 other specialist. Such services are provided to enable individuals to
30 remain in their own homes and may include such services as: assistance
31 in meeting basic care needs such as meal preparation; shopping for food
32 and other necessities; running necessary errands; providing
33 transportation to essential service facilities; care and cleaning of the
34 house, grounds, clothing, and linens.
35 (3) 'Combination home' shall be defined in accordance with the terms of
36 G.S. 131E-101(1).
37 (4) ~~'Domiciliary home'~~ 'Adult care home' shall be defined in accordance with
38 the terms of G.S. 131D-2(a)(3).
39 (5) 'Family care home' shall be defined in accordance with the terms of G.S.
40 131D-2(a)(5).
41 (6) 'Group home for developmentally disabled adults' shall be defined in
42 accordance with the terms of G.S. 131D-2(a)(6).

- 1 (7) ~~'Home for the aged and disabled' shall be defined in accordance with the~~
2 ~~terms of G.S. 131D-2(a)(7).~~
- 3 (8) 'Home health services' shall be defined in accordance with the terms of
4 G.S. 131E-136(3).
- 5 (9) 'Homemaker services' means supportive services provided by qualified
6 para-professionals who are trained, equipped, assigned, and supervised
7 by professionals within the agency to help maintain, strengthen, and
8 safeguard the care of the elderly in their own homes. These standards
9 must, at a minimum, meet standards established by the North Carolina
10 Division of Social Services and may include: Providing assistance in
11 management of household budgets; planning nutritious meals;
12 purchasing and preparing foods; housekeeping duties; consumer
13 education; and basic personal and health care.
- 14 (10) 'Hospice' shall be defined in accordance with the terms of G.S. 131E-
15 176(13a).
- 16 (11) 'Intermediate care facility' shall be defined in accordance with the terms
17 of G.S. 131E-176(14b).
- 18 (12) 'Nursing home' shall be defined in accordance with the terms of G.S.
19 131E-101(6).
- 20 (13) 'Respite care, institutional' means provision of temporary support to the
21 primary caregiver of the aged, disabled, or handicapped individual by
22 taking over the tasks of that person for a limited period of time. The
23 insured receives care for the respite period in an institutional setting,
24 such as a nursing home, family care home, rest home, or other
25 appropriate setting.
- 26 (14) 'Respite care, non-institutional' means provision of temporary support to
27 the primary caregiver of the aged, disabled, or handicapped individual
28 by taking over the tasks of that person for a limited period of time in the
29 home of the insured or other appropriate community location.
- 30 (15) 'Skilled Nursing Facility' shall be defined in accordance with the terms
31 of G.S. 131E-176(23)."

32 Sec. 4. G.S. 108A-14(a) reads as rewritten:

33 "(a) The director of social services shall have the following duties and
34 responsibilities:

- 35 (1) To serve as executive officer of the board of social services and act as
36 its secretary;
- 37 (2) To appoint necessary personnel of the county department of social
38 services in accordance with the merit system rules of the State Personnel
39 Commission;
- 40 (3) To administer the programs of public assistance and social services
41 established by this Chapter under pertinent rules and regulations;

- 1 (4) To administer funds provided by the board of commissioners for the
2 care of indigent persons in the county under policies approved by the
3 county board of social services;
- 4 (5) To act as agent of the Social Services Commission and Department of
5 Human Resources in relation to work required by the Social Services
6 Commission and Department of Human Resources in the county;
- 7 (6) To investigate cases for adoption and to supervise adoptive placements;
- 8 (7) To issue employment certificates to children under the regulations of the
9 State Department of Labor;
- 10 (8) To supervise ~~domiciliary homes for aged or disabled persons~~ adult care
11 homes under the rules and regulations of the Social Services
12 Commission;
- 13 (9) To assist and cooperate with the Department of Correction and their
14 representatives;
- 15 (10) To act in conformity with the provisions of Article 7, Chapter 35 of the
16 General Statutes with regard to sterilization of mentally ill and mentally
17 retarded persons;
- 18 (11) To investigate reports of child abuse and neglect and to take appropriate
19 action to protect such children pursuant to the Child Abuse Reporting
20 Law, Article 44 of Chapter 7A;
- 21 (12) To accept children for placement in foster homes and to supervise
22 placements for so long as such children require foster home care;
- 23 (13) To respond by investigation to notification of a proposed adoptive
24 placement pursuant to G.S. 48-3(b) and (c); and
- 25 (14) To receive and evaluate reports of abuse, neglect, or exploitation of
26 disabled adults and to take appropriate action as required by the
27 Protection of the Abused, Neglected, or Exploited Disabled Adults Act,
28 Article 6 of this Chapter, to protect these adults."

29 Sec. 5. G.S. 108A-41(a) reads as rewritten:

30 "(a) Assistance shall be granted under this Part to all persons in ~~domiciliary facilities~~
31 adult care homes for care found to be essential in accordance with the rules and
32 regulations adopted by the Social Services Commission and prescribed by G.S. 108A-
33 42(b)."

34 Sec. 6. G.S. 108A-47 reads as rewritten:

35 "**§ 108A-47. Limitations on payments.**

36 No payment of assistance under this Part shall be made for the care of any person in a
37 ~~domiciliary facility which~~ an adult care home that is owned or operated in whole or in part
38 by any of the following:

- 39 (1) A member of the Social Services Commission, of any county board of
40 social services, or of any board of county commissioners;
- 41 (2) An official or employee of the Department, unless the official or
42 employee has been appointed temporary manager of the facility

1 pursuant to G.S. 131E-237, or of any county department of social
2 services;

3 (3) A spouse of a person designated in subdivisions (1) and (2)."

4 Sec. 6.1. G.S. 113-271(d)(8) reads as rewritten:

5 "(8) ~~Rest Home~~Adult Care Home Resident Fishing License – No charge.
6 This license shall be issued only to an individual resident of the State
7 who resides in a ~~domiciliary home~~an adult care home as defined in G.S.
8 131D-2(a)(3) or G.S. 131E-101(4). This license is valid for the life of
9 the individual so long as ~~he~~the individual remains a resident of a
10 ~~domiciliary home~~an adult care home."

11 Sec. 7. G.S. 122C-22(a) reads as rewritten:

12 "(a) The following are excluded from the provisions of this Article and are not
13 required to obtain licensure under this Article:

- 14 (1) Physicians and psychologists engaged in private office practice;
- 15 (2) General hospitals licensed under Article 5 of Chapter 131E of the
16 General Statutes, that operate special units for the mentally ill,
17 developmentally disabled, or substance abusers;
- 18 (3) State and federally-operated facilities;
- 19 (4) ~~Domiciliary care homes~~Adult care homes licensed under Chapter 131D
20 of the General Statutes;
- 21 (5) Developmental child day care centers licensed under Article 7 of
22 Chapter 110 of the General Statutes;
- 23 (6) Persons subject to licensure under rules of the Social Services
24 Commission;
- 25 (7) Persons subject to rules and regulations of the Division of Vocational
26 Rehabilitation Services; and
- 27 (8) Facilities that provide occasional respite care for not more than two
28 individuals at a time; provided that the primary purpose of the facility is
29 other than as defined in G.S. 122C-3(14)."

30 Sec. 8. G.S. 131D-2 reads as rewritten:

31 "**§ 131D-2. Licensing of ~~domiciliary homes~~adult care homes for the aged and
32 disabled.**

33 (a) The following definitions will apply in the interpretation of this section:

34 (1) 'Abuse' means the willful or grossly negligent infliction of physical
35 pain, injury or mental anguish, unreasonable confinement, or the willful
36 or grossly negligent deprivation by the administrator or staff of a
37 ~~domiciliary home~~an adult care home of services which are necessary to
38 maintain mental and physical health.

39 (1b) 'Adult care home' is an assisted living residence in which the housing
40 management provides 24-hour scheduled and unscheduled personal care
41 services to two or more residents, either directly or, for scheduled needs,
42 through formal written agreement with licensed home care or hospice
43 agencies. Some licensed adult care homes provide supervision to

1 persons with cognitive impairments whose decisions, if made
2 independently, may jeopardize the safety or well-being of themselves or
3 others and therefore require supervision. Medication in an adult care
4 home may be administered by designated, trained staff. Adult care
5 homes that provide care to two to six unrelated residents are commonly
6 called family care homes. Adult care homes and family care homes are
7 subject to licensure by the Division of Facility Services.

8 (1b) 'Amenities' means services such as meals, housekeeping, transportation,
9 and grocery shopping that do not involve hands-on personal care.

10 (1c) 'Assisted living residence' means any group housing and services
11 program for two or more unrelated adults, by whatever name it is called,
12 that makes available, at a minimum, one meal a day and housekeeping
13 services and provides personal care services directly or through a formal
14 written agreement with one or more licensed home care or hospice
15 agencies. The Department may allow nursing service exceptions on a
16 case-by-case basis. Settings in which services are delivered may include
17 self-contained apartment units or single or shared room units with
18 private or area baths. Assisted living residences are to be distinguished
19 from nursing homes subject to provisions of G.S. 131E-102. Effective
20 October 1, 1995, there are two types of assisted living residences: adult
21 care homes and group homes for developmentally disabled adults.
22 Effective July 1, 1996, there is a third type, multiunit assisted housing
23 with services.

24 (1d) 'Compensatory agent' means a spouse, relative, or other caretaker who
25 lives with a resident and provides care to a resident.

26 (2) 'Developmentally disabled adult' means a person who has attained the
27 age of 18 years and who has a developmental disability defined as a
28 severe, chronic disability of a person which:
29 a. Is attributed to a mental or physical impairment or combination
30 of mental and physical impairments;
31 b. Is manifested before the person attains age 22;
32 c. Is likely to continue indefinitely;
33 d. Results in substantial functional limitations in three or more of
34 the following areas of major life activity: (i) self-care, (ii)
35 receptive and expressive language, (iii) learning, (iv) mobility,
36 (v) self-direction, (vi) capacity for independent living, and (vii)
37 economic self-sufficiency; and
38 e. Reflects the person's need for a combination and sequence of
39 special, interdisciplinary, or generic care, treatment, or other
40 services which are of lifelong or extended duration and are
41 individually planned and coordinated.

42 (3) 'Domiciliary home' means any facility, by whatever name it is called,
43 which provides residential care for aged or disabled persons whose

1 principal need is a home which provides the supervision and personal
2 care appropriate to their age or disability. Medical care at a domiciliary
3 home is only occasional or incidental, such as may be given in the home
4 of any individual or family, but medication is administered by
5 designated staff of the home. Personal care given in a domiciliary home
6 includes direct assistance, by designated staff, to residents in personal
7 grooming, bathing, dressing, feeding, shopping, laundering clothes,
8 handling personal finances, arranging transportation, scheduling
9 medical or business appointments, as well as attending to any personal
10 needs residents may be incapable of or unable to attend for themselves.
11 Domiciliary homes are to be distinguished from nursing homes subject
12 to licensure under G.S. 131E-102. The three types of domiciliary
13 homes are homes for the aged and disabled, family care homes and
14 group homes for developmentally disabled adults.

15 (4) 'Exploitation' means the illegal or improper use of an aged or disabled
16 resident or his resources for another's profit or advantage.

17 (5) 'Family care home' means ~~a domiciliary home~~ an adult care home having
18 two to six residents. The structure of a family care home may be no
19 more than two stories high and none of the aged or physically disabled
20 persons being served there may be housed in the upper story without
21 provision for two direct exterior ground-level accesses to the upper
22 story.

23 (6) 'Group home for developmentally disabled adults' means ~~a domiciliary~~
24 ~~home~~ an adult care home which has two to nine developmentally
25 disabled adult residents.

26 (7) 'Home for the aged and disabled' means ~~a domiciliary home which has~~
27 ~~seven or more residents.~~

28 (7a) Effective July 1, 1996, 'multiunit assisted housing with services' means
29 an assisted living residence in which hands-on personal care services
30 and nursing services which are arranged by housing management are
31 provided by a licensed home care or hospice agency, through an
32 individualized written care plan. The housing management has a
33 financial interest or financial affiliation or formal written agreement
34 which makes personal care services accessible and available through at
35 least one licensed home care or hospice agency. The resident has a
36 choice of any provider, and the housing management may not combine
37 charges for housing and personal care services. All residents, or their
38 compensatory agents, must be capable, through informed consent, of
39 entering into a contract and must not be in need of 24-hour supervision.
40 Assistance with self-administration of medications may be provided by
41 appropriately trained staff when delegated by a licensed nurse according
42 to the home care agency's established plan of care. Multiunit assisted
43 housing with services programs are required to register with the

1 Division of Facility Services and to provide a disclosure statement. The
2 disclosure statement is required to be a part of the annual rental contract
3 that includes a description of the following requirements:

- 4 a. Emergency response system;
5 b. Charges for services offered;
6 c. Limitations of tenancy;
7 d. Limitations of services;
8 e. Resident responsibilities;
9 f. Financial/legal relationship between housing management and
10 home care or hospice agencies;
11 g. A listing of all home care or hospice agencies and other
12 community services in the area;
13 h. An appeals process; and
14 i. Procedures for required initial and annual resident screening and
15 referrals for services.

16 Continuing care retirement communities, subject to regulation by the
17 Department of Insurance under Chapter 58 of the General Statutes, are
18 exempt from the regulatory requirements for multiunit assisted housing
19 with services programs.

20 (8) 'Neglect' means the failure to provide the services necessary to maintain
21 a resident's physical or mental health.

22 (9) 'Personal care services' means any hands-on services allowed to be
23 performed by In-Home Aides II or III as outlined in Department rules.

24 (10) 'Registration' means the submission by a multiunit assisted housing with
25 services provider of a disclosure statement containing all the
26 information as outlined in subdivision (7a) of this subsection.

27 (11) 'Resident' means a person living in an assisted living residence for the
28 purpose of obtaining access to housing and services provided or made
29 available by housing management.

30 (a1) Persons not to be cared for in adult care homes. Except when a physician
31 certifies that appropriate care can be provided on a temporary basis to meet the resident's
32 needs and prevent unnecessary relocation, adult care homes shall not care for individuals
33 with any of the following conditions or care needs:

34 (1) Ventilator dependency;

35 (2) Individuals requiring continuous licensed nursing care;

36 (3) Individuals whose physician certifies that placement is no longer
37 appropriate;

38 (4) Individuals whose health needs cannot be met in the specific adult care
39 home as determined by the residence, and

40 (5) Such other medical and functional care needs as the Social Services
41 Commission determines cannot be properly met in an adult care home.

42 (a2) Persons not to be cared for in multiunit assisted housing with services. Except
43 when a physician certifies that appropriate care can be provided on a temporary basis to

1 meet the resident's needs and prevent unnecessary relocation, multiunit assisted housing
2 with services shall not care for individuals with any of the following conditions or care
3 needs:

- 4 (1) Ventilator dependency;
- 5 (2) Dermal ulcers III and IV, except those stage III ulcers which are
6 determined by an independent physician to be healing;
- 7 (3) Intravenous therapy or injections directly into the vein, except for
8 intermittent intravenous therapy managed by a home care or hospice
9 agency licensed in this State;
- 10 (4) Airborne infectious disease in a communicable state that requires
11 isolation of the individual or requires special precautions by the
12 caretaker to prevent transmission of the disease, including diseases such
13 as tuberculosis and excluding infections such as the common cold;
- 14 (5) Psychotropic medications without appropriate diagnosis and treatment
15 plans;
- 16 (6) Nasogastric tubes;
- 17 (7) Gastric tubes except when the individual is capable of independently
18 feeding himself and caring for the tube, or as managed by a home care
19 or hospice agency licensed in this State;
- 20 (8) Individuals requiring continuous licensed nursing care;
- 21 (9) Individuals whose physician certifies that placement is no longer
22 appropriate;
- 23 (10) Unless the individual's independent physician determines otherwise,
24 individuals who require maximum physical assistance as documented
25 by a uniform assessment instrument and who meet Medicaid nursing
26 facility level-of-care criteria as defined in the State Plan for Medical
27 Assistance. Maximum physical assistance means that an individual has
28 a rating of total dependence in four or more of the seven activities of
29 daily living as documented on a uniform assessment instrument;
- 30 (11) Individuals whose health needs cannot be met in the specific multiunit
31 assisted housing with services as determined by the residence; and
- 32 (12) Such other medical and functional care needs as the Social Services
33 Commission determines cannot be properly met in multiunit assisted
34 housing with services.

35 (a3) Hospice care. At the request of the resident, hospice care may be provided in
36 an assisted living residence under the same requirements for hospice programs as
37 described in Article 10 of Chapter 131E of the General Statutes.

38 (b) Licensure; inspections. –

- 39 (1) The Department of Human Resources shall inspect and license, under
40 rules adopted by the Social Services Commission, all ~~domiciliary homes~~
41 adult care homes for persons who are aged or mentally or physically
42 disabled except those exempt in subsection ~~(d)~~-(c) of this section.
43 Licenses issued under the authority of this section shall be valid for one

1 year from the date of issuance unless revoked earlier by the Secretary of
2 Human Resources for failure to comply with any part of this section or
3 any rules adopted hereunder. Licenses shall be renewed annually upon
4 filing and the Department's approval of the renewal application. A
5 license shall not be renewed if outstanding fines and penalties imposed
6 by the State against the home have not been paid. Fines and penalties
7 for which an appeal is pending are exempt from consideration. The
8 renewal application shall contain all necessary and reasonable
9 information that the Department may by rule require. The Department
10 may also issue a provisional license to a facility, pursuant to rules
11 adopted by the Social Services Commission, for substantial failure to
12 comply with the provisions of this section or rules promulgated pursuant
13 to this section. Any facility wishing to contest the issuance of a
14 provisional license shall be entitled to an administrative hearing as
15 provided in the Administrative Procedure Act, Chapter 150B of the
16 General Statutes. A petition for a contested case shall be filed within 30
17 days after the Department mails written notice of the issuance of the
18 provisional license.

- 19 (1a) In addition to the licensing and inspection requirements mandated by
20 subdivision (1) of this subsection, the Department shall ensure that
21 ~~domiciliary care facilities~~ adult care homes required to be licensed by this
22 Article are monitored for licensure compliance on a regular basis. In
23 carrying out this requirement, the Department shall work with county
24 departments of social services to do the routine monitoring and to have
25 the Division of Facility Services oversee this monitoring and perform
26 any follow-up inspection called for.
- 27 (2) Any individual or corporation that establishes, conducts, manages, or
28 operates a facility subject to licensure under this section without a
29 license is guilty of a Class 3 misdemeanor, and upon conviction shall be
30 punishable only by a fine of not more than fifty dollars (\$50.00) for the
31 first offense and not more than five hundred dollars (\$500.00) for each
32 subsequent offense. Each day of a continuing violation after conviction
33 shall be considered a separate offense.
- 34 (3) In addition, the Department may summarily suspend a license pursuant
35 to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,
36 neglect, exploitation or any condition which presents an imminent
37 danger to the health and safety of any resident of the home. Any facility
38 wishing to contest summary suspension of a license shall be entitled to
39 an administrative hearing as provided in the Administrative Procedure
40 Act, Chapter 150B of the General Statutes. A petition for a contested
41 case shall be filed within 20 days after the Department mails a notice of
42 summary suspension to the licensee.

1 (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of
2 communications between physician and patient, in the course of an
3 inspection conducted under subsection (b):

4 a. Department representatives may review any writing or other
5 record concerning the admission, discharge, medication, care,
6 medical condition, or history of any person who is or has been a
7 resident of the facility being inspected, and

8 b. Any person involved in giving care or treatment at or through the
9 facility may disclose information to Department representatives;
10 unless the resident objects in writing to review of his records or
11 disclosure of such information.

12 The facility, its employees and any other person interviewed in the
13 course of an inspection shall be immune from liability for damages
14 resulting from disclosure of any information to the Department.

15 The Department shall not disclose:

16 a. Any confidential or privileged information obtained under this
17 subsection unless the resident or his legal representative
18 authorizes disclosure in writing or unless a court of competent
19 jurisdiction orders disclosure, or

20 b. The name of anyone who has furnished information concerning a
21 facility without that person's consent.

22 The Department shall institute appropriate policies and procedures to
23 ensure that unauthorized disclosure does not occur. All confidential or
24 privileged information obtained under this section and the names of
25 persons providing such information shall be exempt from Chapter 132
26 of the General Statutes.

27 (c) ~~The following facilities are exempt from this section and shall not be required~~
28 ~~to obtain a license hereunder:~~

29 ~~(1) Those which care for one person only;~~

30 ~~(2) Those which care for two or more persons, all of whom are related or~~
31 ~~connected by blood or by marriage to the operator of the facility;~~

32 ~~(3) Those which make no charges for care, either directly or indirectly;~~

33 ~~(4) Those which care for no more than four persons, all of whom are under~~
34 ~~the supervision of the United States Veterans Administration.~~

35 The following are excluded from the provisions of this section and are not required to
36 be registered or obtain licensure under this section:

37 (1) Facilities licensed under Chapter 122C or Chapter 131E of the General
38 Statutes;

39 (2) Persons subject to rules of the Division of Vocational Rehabilitation
40 Services;

41 (3) Facilities that care for no more than four persons, all of whom are under
42 the supervision of the United States Veterans Administration; and

1 (4) Facilities that make no charges for housing, amenities, or personal care
2 service, either directly or indirectly.

3 (c1) Although the contract obligation still remains to pay the housing management
4 for any services covered by the contract between the resident and housing management,
5 the resident of an assisted living facility has the right to obtain services not at the expense
6 of the housing management, from providers other than the housing management.

7 (c2) The Social Services Commission shall adopt any rules necessary to carry out
8 this section. The Commission has the authority, in adopting rules, to specify the
9 limitation of nursing services provided by assisted living residences. In developing rules,
10 the Commission shall consider the need to ensure comparable quality of services
11 provided to residents, whether these services are provided directly by a licensed assisted
12 living provider, licensed home care agency, or hospice. In adult care homes, living
13 arrangements where residents require supervision due to cognitive impairments, rules
14 shall be promulgated to ensure that supervision is appropriate and adequate to meet the
15 special needs of these residents.

16 (c3) Nothing in this section shall be construed to supersede any federal or State
17 antitrust, antikickback, or safe harbor laws or regulations.

18 (c4) Housing programs for two or more unrelated adults that target their services to
19 elderly or disabled persons in which the only services provided by the housing
20 management, either directly or through an agreement or other arrangements, are
21 amenities that include, at a minimum, one meal a day and housekeeping services, are
22 exempt from licensure, but are required to be listed with the Division of Aging, providing
23 information on their location and number of units operated. This type of housing is not
24 considered assisted living.

25 ~~(d) This section does not apply to any institution which is established, maintained~~
26 ~~or operated by any unit of government, by any commercial inn or hotel, or to any facility~~
27 ~~licensed by the Medical Care Commission under the provisions of G.S. 131E-102,~~
28 ~~entitled 'Licensure requirements.' If any nursing home licensed under G.S. 131E-102 also~~
29 ~~functions as a domiciliary home, then the domiciliary home component must comply~~
30 ~~with rules adopted by the Medical Care Commission.~~

31 (e) The Department of Human Resources shall provide the method of evaluation
32 of residents in ~~domiciliary homes~~ adult care homes in order to determine when any of
33 those residents are in need of the professional medical and nursing care provided in
34 licensed nursing homes.

35 (f) If any provisions of this section or the application of it to any person or
36 circumstance is held invalid, the invalidity does not affect other provisions or
37 applications of the section which can be given effect without the invalid provision or
38 application, and to this end the provisions of this section are severable.

39 (g) In order for ~~a domiciliary home~~ an adult care home to maintain its license, it
40 shall not hinder or interfere with the proper performance of duty of a lawfully appointed
41 community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

42 (h) Suspension of admissions to ~~domiciliary home~~ adult care home:

- 1 (1) In addition to the administrative penalties described in subsection (b),
2 the Secretary may suspend the admission of any new residents to a
3 ~~domiciliary home, an adult care home,~~ where the conditions of the
4 ~~domiciliary home-adult care home~~ are detrimental to the health or safety
5 of the residents. This suspension shall be for the period determined by
6 the Secretary and shall remain in effect until the Secretary is satisfied
7 that conditions or circumstances merit removing the suspension.
- 8 (2) In imposing a suspension under this subsection, the Secretary shall
9 consider the following factors:
- 10 a. The degree of sanctions necessary to ensure compliance with this
11 section and rules adopted hereunder; and
- 12 b. The character and degree of impact of the conditions at the home
13 on the health or safety of its residents.
- 14 (3) The Secretary of Human Resources shall adopt rules to implement this
15 subsection.
- 16 (4) Any facility wishing to contest a suspension of admissions shall be
17 entitled to an administrative hearing as provided in the Administrative
18 Procedure Act, Chapter 150B of the General Statutes. A petition for a
19 contested case shall be filed within 20 days after the Department mails a
20 notice of suspension of admissions to the licensee.

21 (i) Notwithstanding the existence or pursuit of any other remedy, the Department
22 of Human Resources may, in the manner provided by law, maintain an action in the name
23 of the State for injunction or other process against any person to restrain or prevent the
24 establishment, conduct, management or operation of a ~~domiciliary home-an adult care~~
25 home without a license. Such action shall be instituted in the superior court of the county
26 in which any unlicensed activity has occurred or is occurring.

27 If any person shall hinder the proper performance of duty of the Secretary or his
28 representative in carrying out this section, the Secretary may institute an action in the
29 superior court of the county in which the hindrance has occurred for injunctive relief
30 against the continued hindrance, irrespective of all other remedies at law.

31 Actions under this subsection shall be in accordance with Article 37 of Chapter 1 of
32 the General Statutes and Rule 65 of the Rules of Civil Procedure."

33 Sec. 9. G.S. 131D-4.1 as added by Chapter 449 of the 1995 Session Laws
34 reads as rewritten:

35 **"§ 131D-4.1. ~~Domiciliary-Adult~~ care homes; legislative intent.**

36 The General Assembly finds and declares that the ability to exercise personal control
37 over one's life is fundamental to human dignity and quality of life and that dependence on
38 others for some assistance with daily life activities should not require surrendering
39 personal control of informed decision making or risk taking in all areas of one's life.

40 The General Assembly intends to ensure that ~~domiciliary-adult~~ care homes provide
41 services that assist the residents in such a way as to assure quality of life and maximum
42 flexibility in meeting individual needs and preserving individual autonomy."

1 Sec. 10. G.S. 131D-4.2 as enacted by Chapter 449 of the 1995 Session Laws
2 reads as rewritten:

3 **"§ 131D-4.2. ~~Domiciliary~~ Adult care homes; family care homes; annual cost reports;**
4 **exemptions; enforcement.**

5 (a) Except for family care homes, ~~domiciliary~~ adult care homes with a licensed
6 capacity of seven to twenty beds, which are licensed pursuant to this Chapter, to Chapter
7 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit
8 audited reports of actual costs to the Department at least every two years in accordance
9 with rules adopted by the Department under G.S. 143B-10. For years in which an audited
10 report of actual costs is not required, an annual cost report shall be submitted to the
11 Department in accordance with rules adopted by the Department under G.S. 143B-10.

12 (b) Except for family care homes, ~~domiciliary~~ adult care homes with a licensed
13 capacity of twenty-one beds or more, which are licensed pursuant to this Chapter, to
14 Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall
15 submit annual audited reports of actual costs to the Department of Human Resources, in
16 accordance with rules adopted by the Department under G.S. 143B-10.

17 (c) Family care homes shall submit annual cost reports to the Department of
18 Human Resources, in accordance with rules adopted by the Department under G.S. 143B-
19 10.

20 (d) Facilities that do not receive State/County Special Assistance or Medicaid
21 personal care are exempt from the reporting requirements of this section.

22 (e) The first audited cost report shall be for the period from January 1, 1995,
23 through September 30, 1995, and shall be due March 1, 1996. Thereafter, the annual
24 reporting period shall be October 1 through September 30, with the annual report due by
25 the following March 1.

26 (f) The Department shall have the authority to conduct audits and review audits
27 submitted pursuant to subsections (a), (b), and (c) above.

28 (g) The Department may take either or both of the following actions to enforce
29 compliance by a facility with this section, or to punish noncompliance:

30 (1) Seek a court order to enforce compliance;

31 (2) Suspend or revoke the facility's license, subject to the provisions of
32 Chapter 150B of the General Statutes.

33 (h) The report documentation shall be used to adjust the ~~domiciliary~~ adult care
34 home rate annually, an adjustment that is in addition to the annual standard adjustment
35 for inflation as determined by the Office of State Budget and Management. The
36 Department of Human Resources shall adopt rules for the rate-setting methodology and
37 audited cost reports in accordance with G.S. 143B-10."

38 Sec. 10.1. G.S. 131D-4.3 as enacted by Chapter 449 of the 1995 Session Laws
39 reads as rewritten:

40 **"§ 131D-4.3. ~~Domiciliary~~ Adult care home rules.**

41 (a) Pursuant to G.S. 143B-153, the Social Services Commission shall adopt rules
42 to ensure at a minimum, but shall not be limited to, the provision of the following by
43 ~~domiciliary~~ adult care homes:

1 (1) Client assessment and independent case management;
2 (2) A minimum of 75 hours of training for personal care aides performing
3 heavy care tasks and a minimum of 40 hours of training for all personal
4 care aides. The training for aides providing heavy care tasks shall be
5 comparable to State-approved Certified Nurse Aide I training. For those
6 aides meeting the 40-hour requirement, at least 20 hours shall be
7 classroom training to include at a minimum:

- 8 a. Basic nursing skills;
9 b. Personal care skills;
10 c. Cognitive, behavioral, and social care;
11 d. Basic restorative services; and
12 e. Residents' rights.

13 A minimum of 20 hours of training shall be provided for aides in family
14 care homes that do not have heavy care residents. Persons who either
15 pass a competency examination developed by the Department of Human
16 Resources, have been employed as personal care aides for a period of
17 time as established by the Department, or meet minimum requirements
18 of a combination of training, testing, and experience as established by
19 the Department shall be exempt from the training requirements of this
20 subdivision;

21 (3) Monitoring and supervision of residents; and

22 (4) Oversight and quality of care as stated in G.S. 131D-4.1.

23 (b) Rules to implement this section shall be adopted as emergency rules in
24 accordance with Chapter 150B of the General Statutes. These rules shall be in effect no
25 later than January 1, 1996.

26 (c) The Department may suspend or revoke a facility's license, subject to the
27 provisions of Chapter 150B, to enforce compliance by a facility with this section or to
28 punish noncompliance."

29 Sec. 11. The title of Article 3 of Chapter 131D of the General Statutes reads as
30 rewritten:

31 **"ARTICLE 3.**

32 **"DOMICILIARY HOME ADULT CARE HOME RESIDENTS' BILL OF RIGHTS."**

33 Sec. 12. G.S. 131D-19 reads as rewritten:

34 **"§ 131D-19. Legislative intent.**

35 It is the intent of the General Assembly to promote the interests and well-being of the
36 residents in ~~domiciliary homes to include family care homes, homes for the aged and~~
37 ~~disabled, and group homes for developmentally disabled adults~~ adult care homes and
38 assisted living residences licensed pursuant to G.S. 131D-2. It is the intent of the General
39 Assembly that every resident's civil and religious liberties, including the right to
40 independent personal decisions and knowledge of available choices, shall not be
41 infringed and that the facility shall encourage and assist the resident in the fullest possible
42 exercise of these rights. It is the intent of the General Assembly that rules developed by
43 the Social Services Commission to implement Article 1 and Article 3 of Chapter 131D of

1 the General Statutes encourage every resident's quality of life, autonomy, privacy,
2 independence, respect, and dignity and provide the following:

- 3 (1) Diverse and innovative housing models that provide choices of different
4 lifestyles that are acceptable, cost-effective, and accessible to all
5 consumers regardless of age, disability, or financial status;
- 6 (2) A residential environment free from abuse, neglect, and exploitation;
- 7 (3) Available, affordable personal service models and individualized plans
8 of care that are mutually agreed upon by the resident, family, and
9 providers and that include measurable goals and outcomes;
- 10 (4) Client assessment, evaluation, and independent case management that
11 enhance quality of life by allowing individual risk-taking and
12 responsibility by the resident for decisions affecting daily living to the
13 greatest degree possible based on the individual's ability; and
- 14 (5) Oversight, monitoring, and supervision by State and county
15 governments to ensure every resident's safety and dignity and to assure
16 that every resident's needs, including nursing and medical care needs if
17 and when needed, are being met."

18 Sec. 13. G.S. 131D-20 reads as rewritten:

19 **"§ 131D-20. Definitions.**

20 As used in this Article, the following terms have the meanings specified:

- 21 (1) 'Abuse' means the willful or grossly negligent infliction of physical
22 pain, injury or mental anguish, unreasonable confinement, or the willful
23 or grossly negligent deprivation by the administrator or staff of a
24 ~~domiciliary home~~ an adult care home of services which are necessary to
25 maintain mental and physical health.
- 26 (2) ~~'Domiciliary home' means any facility, by whatever name it is called,~~
27 ~~which provides residential care for aged or disabled persons whose~~
28 ~~principal need is a home which provides the supervision and personal~~
29 ~~care appropriate to their age or disability. Medical care at a domiciliary~~
30 ~~home is only occasional or incidental, such as may be given in the home~~
31 ~~of any individual or family, but medication is administered by~~
32 ~~designated staff of the home. Personal care given in a domiciliary home~~
33 ~~includes direct assistance, by designated staff, to residents in personal~~
34 ~~grooming, bathing, dressing, feeding, shopping, laundering clothes,~~
35 ~~handling personal finances, arranging transportation, scheduling~~
36 ~~medical or business appointments, as well as attending to any personal~~
37 ~~needs residents may be incapable of or unable to attend for themselves.~~
38 ~~Domiciliary homes are to be distinguished from nursing homes subject~~
39 ~~to licensure under G.S. 131E-102. The three types of domiciliary homes~~
40 ~~are homes for the aged and disabled, family care homes and group~~
41 ~~homes for developmentally disabled adults.~~
- 42 (2a) 'Adult care home' is an assisted living residence in which the housing
43 management provides 24-hour scheduled and unscheduled personal care

1 services to two or more residents, either directly or, for scheduled needs,
2 through formal written agreement with licensed home care or hospice
3 agencies. Some licensed adult care homes provide supervision to
4 persons with cognitive impairments whose decisions, if made
5 independently, may jeopardize the safety or well-being of themselves or
6 others and therefore require supervision. Medication in an adult care
7 home may be administered by designated, trained staff. Adult care
8 homes that provide care to two to six unrelated residents are commonly
9 called family care homes. Adult care homes and family care homes are
10 subject to licensure by the Division of Facility Services.

11 (2b) 'Assisted living residence' means any group housing and services
12 program for two or more unrelated adults, by whatever name it is called,
13 that makes available, at a minimum, one meal a day and housekeeping
14 services and provides personal care services directly or through a formal
15 written agreement with one or more licensed home care or hospice
16 agencies. The Department may allow nursing service exceptions on a
17 case-by-case basis. Settings in which services are delivered may include
18 self-contained apartment units or single or shared room units with
19 private or area baths. Assisted living residences are to be distinguished
20 from nursing homes subject to provisions of G.S. 131E-102.

21 (3) 'Exploitation' means the illegal or improper use of an aged or
22 disabled resident or his resources for another's profit or advantage.

23 (4) 'Facility' means a ~~domiciliary home~~ an adult care home licensed pursuant
24 to G.S. 131D-2.

25 (5) 'Family care home' means a ~~domiciliary home~~ an adult care home having
26 two to six residents. The structure of a family care home may be no
27 more than two stories high and none of the aged or physically disabled
28 persons being served there may be housed in the upper story without
29 provision for two direct exterior ground-level accesses to the upper
30 story.

31 (6) 'Group home for developmentally disabled adults' means a ~~domiciliary~~
32 ~~home~~ and adult care home which has two to nine developmentally
33 disabled adult residents.

34 (7) 'Home for the aged and disabled' means a ~~domiciliary home~~ which has
35 ~~seven or more residents.~~

36 (8) 'Neglect' means the failure to provide the services necessary to maintain
37 the physical or mental health of a resident.

38 (9) 'Resident' means an aged or disabled person who has been admitted to a
39 facility."

40 Sec. 14. G.S. 131D-31 reads as rewritten:

41 **"§ 131D-31. ~~Domiciliary home~~ Adult care home community advisory committees.**

42 (a) Statement of Purpose. – It is the intention of the General Assembly that
43 community advisory committees work to maintain the intent of the ~~Domiciliary Home~~

1 Adult Care Home Residents' Bill of Rights within the licensed ~~domiciliary homes~~ adult
2 care homes in this State. It is the further intent of the General Assembly that the
3 committees promote community involvement and cooperation with ~~domiciliary homes~~
4 adult care homes to ensure quality care for the elderly and disabled adults.

5 (b) Establishment and Appointment of Committees. –

6 (1) A community advisory committee shall be established in each county
7 ~~which that~~ has at least one licensed ~~domiciliary home~~, adult care home
8 shall serve all the homes in the county, and shall work with each of
9 these homes for the best interests of the residents. In a county ~~which that~~
10 has one, two, or three ~~homes for the aged and disabled~~, adult care homes
11 with 10 or more beds, the committee shall have five members.

12 (2) In a county with four or more ~~homes for the aged and disabled~~, adult care
13 homes with 10 or more beds, the committee shall have one additional
14 member for each ~~home for the aged and disabled~~ adult care home with 10
15 or more beds in excess of three, up to a maximum of 20 members. In
16 each county with four or more ~~homes for the aged and disabled~~, adult care
17 homes with 10 or more beds, the committee shall establish a
18 subcommittee of no more than five members and no fewer than three
19 members from the committee for each ~~domiciliary home~~ adult care home
20 in the county. Each member must serve on at least one subcommittee.

21 (3) In counties with no ~~homes for the aged and disabled~~, adult care homes
22 with 10 or more beds, the committee shall have five members.
23 Regardless of how many members a particular community advisory
24 committee ~~must~~ is required to have, at least one member of each
25 committee shall be a person involved in the area of mental retardation.

26 (4) The boards of county commissioners are encouraged to appoint the
27 ~~Domiciliary Home~~ Adult Care Home Community Advisory Committees.
28 Of the members, a minority (not less than one-third, but as close to one-
29 third as possible) ~~must~~ shall be chosen from among persons nominated
30 by a majority of the chief administrators of ~~domiciliary homes~~ adult care
31 homes in the county. If the ~~domiciliary home~~ adult care home
32 administrators fail to make a nomination within 45 days after written
33 notification has been sent to them requesting a nomination, ~~such~~ these
34 appointments may be made without nominations. If the county
35 commissioners fail to appoint members to a committee by July 1, 1983,
36 the appointments shall be made by the Assistant Secretary ~~on~~ for Aging,
37 Department of Human Resources, no sooner than 45 days after
38 nominations have been requested from the ~~domiciliary home~~ adult care
39 home administrators, but no later than October 1, 1983. In making ~~his~~
40 appointments, the Assistant Secretary for Aging shall follow the same
41 appointment process as that specified for the County Commissioners.

42 (c) Joint ~~nursing~~ Nursing and ~~Domiciliary Home~~ Adult Care Home Community
43 Advisory Committees. – Appointment to the Nursing Home Community Advisory

1 Committees shall preclude appointment to the ~~Domiciliary Home~~ Adult Care Home
2 Community Advisory Committees except where written approval to combine these
3 committees is obtained from the Assistant Secretary ~~on~~ for Aging, Department of Human
4 Resources. Where ~~such~~ this approval is obtained, the Joint Nursing and ~~Domiciliary Home~~
5 Adult Care Home Community Advisory Committee shall have the membership required
6 of Nursing Home Community Advisory Committees and one additional member for each
7 ~~home for the aged and disabled present~~ adult care home with 10 or more beds licensed in the
8 county. In counties with no ~~homes for the aged and disabled,~~ adult care homes with 10 or
9 more beds, there shall be one additional member for every four ~~domiciliary homes~~ other
10 types of adult care homes in the county. In no case shall the number of members on the
11 Joint Nursing and ~~Domiciliary Home~~ Adult Care Home Community Advisory Committee
12 exceed 25. Each member shall exercise the statutory rights and responsibilities of both
13 Nursing Home Committees and ~~Domiciliary Home~~ Adult Care Home Committees. In
14 making appointments to this joint committee, the county commissioners shall solicit
15 nominations from both nursing and ~~domiciliary home~~ adult care home administrators for
16 the appointment of approximately (but no more than) one-third of the members.

17 (d) Terms of Office. – Each committee member shall serve an initial term of one
18 year. Any person reappointed to a second or subsequent term in the same county shall
19 serve a two- or three-year term at the county commissioners' discretion to ensure
20 staggered terms of office.

21 (e) Vacancies. – Any vacancy shall be filled by appointment of a person for a one-
22 year term. If this vacancy is in a position filled by an appointee nominated by the chief
23 administrators of ~~domiciliary homes~~ adult care homes within the county, then the county
24 commissioners shall fill the vacancy from persons nominated by a majority of the chief
25 administrators. If the ~~domiciliary home~~ adult care home administrators fail to make a
26 nomination by registered mail within 45 days after written notification has been sent to
27 them requesting a nomination, ~~such~~ this appointment may be made without nominations.
28 If the county commissioners fail to fill a vacancy, the vacancy may be filled by the
29 Assistant Secretary ~~on~~ for Aging, Department of Human Resources no sooner than 45
30 days after the commissioners have been notified of the appointment or vacancy.

31 (f) Officers. – The committee shall elect from its members a chair, to serve a one-
32 year term.

33 (g) Minimum Qualifications for Appointment. – Each member must be a resident
34 of the county which the committee serves. No person or immediate family member of a
35 person with a financial interest in a home served by the committee, or employee or
36 governing board member of a home served by the committee, or immediate family
37 member of a resident in a home served by the committee may be a member of that
38 committee. Any county commissioner who is appointed to the committee shall be
39 deemed to be serving on the committee in an ex officio capacity. Members of the
40 committee shall serve without compensation, but may be reimbursed for actual expenses
41 incurred by them in the performance of their duties. The names of the committee
42 members and the date of expiration of their terms shall be filed with the Division of
43 Aging, Department of Human Resources.

1 (h) Training. – The Division of Aging, Department of Human Resources, shall
2 develop training materials, which shall be distributed to each committee member. Each
3 committee member must receive training as specified by the Division of Aging prior to
4 exercising any power under G.S. 131D-32. The Division of Aging, Department of
5 Human Resources, shall provide the committees with information, guidelines, training,
6 and consultation to direct them in the performance of their duties.

7 (i) Any written communication made by a member of a ~~domiciliary home~~ adult care
8 home advisory committee within the course and scope of the member's duties, as
9 specified in G.S. 131D-32, shall be privileged to the extent provided in this subsection.
10 This privilege shall be a defense in a cause of action for libel if the member was acting in
11 good faith and the statements and communications do not amount to intentional
12 wrongdoing.

13 To the extent that any ~~domiciliary home~~ adult care home advisory committee or any
14 member thereof is covered by liability insurance, that committee or member shall be
15 deemed to have waived the qualified immunity herein to the extent of indemnification by
16 insurance."

17 Sec. 15. G.S. 131D-32 reads as rewritten:

18 "**§ 131D-32. Functions of ~~domiciliary home~~ adult care home community advisory**
19 **committees.**

20 (a) The committee shall serve as the nucleus for increased community
21 involvement with ~~domiciliary homes~~ adult care homes and their residents.

22 (b) The committee shall promote community education and awareness of the needs
23 of aging and disabled persons who reside in ~~domiciliary homes~~, adult care homes, and
24 shall work towards keeping the public informed about aspects of long-term care and the
25 operation of ~~domiciliary homes~~ adult care homes in North Carolina.

26 (c) The committee shall develop and recruit volunteer resources to enhance the
27 quality of life for ~~domiciliary home~~ adult care home residents.

28 (d) The committee shall establish linkages with the ~~domiciliary home~~ adult care
29 home administrators and the county department of social services for the purpose of
30 maintaining the intent of the ~~Domiciliary Home~~ Adult Care Home Residents' Bill of
31 Rights.

32 (e) Each committee shall apprise itself of the general conditions under which the
33 persons are residing in the homes, and shall work for the best interests of the persons in
34 the homes. This may include assisting persons who have grievances with the home and
35 facilitating the resolution of grievances at the local level. ~~The names of all complaining~~
36 ~~persons and the names of residents involved in the complaint shall remain confidential unless~~
37 ~~written permission is given for disclosure.~~ The identity of any complainant or resident
38 involved in a complaint shall not be disclosed except as permitted under the Older
39 Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. The committee shall notify
40 the enforcement agency of all verified violations of the ~~Domiciliary Home~~ Adult Care
41 Home Residents' Bill of Rights.

1 (f) The committee or subcommittee may communicate through the committee
2 chair with the Department of Human Resources, the county department of social services,
3 or any other agency in relation to the interest of any resident.

4 (g) Each committee shall quarterly visit the ~~homes for the aged and disabled~~ adult
5 care homes with 10 or more beds it serves. For each official quarterly visit, a majority of
6 the committee members shall be present. A minimum of three members of the committee
7 shall make at least one visit annually to each ~~family care home and group home for~~
8 ~~developmentally disabled adults present~~ other type of adult care home licensed in the
9 county. In addition, each committee may visit the ~~domiciliary homes~~ adult care homes it
10 serves whenever it deems it necessary to carry out its duties. In counties with
11 subcommittees, the subcommittee assigned to a home shall perform the duties of the
12 committee under this subsection, and a majority of the subcommittee members must be
13 present for any visit. When visits are made to group homes for developmentally disabled
14 adults, rules concerning confidentiality as adopted by the Commission for Mental Health,
15 Developmental Disabilities, and Substance Abuse Services shall apply.

16 (h) The individual members of the committee shall have the right between 10:00
17 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the
18 members' responsibilities. In a county where subcommittees have been established, this
19 right of access shall be limited to members of the subcommittee which serves that home.
20 A majority of the committee or subcommittee members ~~must~~ shall be present to enter the
21 facility at other hours. Before entering any ~~domiciliary home,~~ adult care home, the
22 committee or members of the committee shall identify themselves to the person present at
23 the facility who is in charge of the facility at that time.

24 (i) The committee shall prepare reports as required by the Department of Human
25 Resources containing an appraisal of the problems of ~~domiciliary care~~ adult care homes
26 facilities as well as issues affecting long-term care in general. Copies of the report shall
27 be sent to the board of county commissioners, county department of social services and
28 the Division of Aging.

29 (j) Nothing contained in this section shall be construed to require the expenditure
30 of any county funds to carry out the provisions ~~herein.~~ in this section."

31 Sec. 16. G.S. 131D-34(h) reads as rewritten:

32 "(h) The Secretary shall establish a penalty review committee within the
33 Department, which shall review administrative penalties assessed pursuant to this section
34 and pursuant to G.S. 131E-129. The Secretary shall ensure that departmental staff review
35 of local departments of social services' penalty recommendations along with prepared
36 staff recommendations for the penalty review committee are completed within 60 days of
37 receipt by the Department of the local recommendations. The Penalty Review
38 Committee shall not review penalty recommendations agreed to by the Department and
39 the long-term care facility for Type B violations except those violations that have been
40 previously cited against the long-term care facility during the previous 12 months or
41 within the time period of the previous licensure inspection, whichever time period is
42 longer. The Secretary shall ensure that the ~~Nursing Home/Rest Home~~ Nursing Home/Adult
43 Care Home Penalty Review Committee established by this subsection is comprised of

1 nine members. At least one member shall be appointed from each of the following
2 categories:

- 3 (1) A licensed pharmacist;
- 4 (2) A registered nurse experienced in long-term care;
- 5 (3) A representative of a nursing home;
- 6 (4) A representative of a ~~domiciliary home~~; an adult care home; and
- 7 (5) A public member.

8 Neither the pharmacist, nurse, nor public member appointed under this subsection nor
9 any member of their immediate families shall be employed by or own any interest in a
10 nursing home or ~~domiciliary home~~; adult care home.

11 Each member of the Committee shall serve a term of two years. The initial terms of
12 the members shall commence on August 3, 1989. The Secretary shall fill all vacancies.
13 Unexcused absences from three consecutive meetings constitute resignation from the
14 Committee."

15 Sec. 17. The Title of Article 4 of Chapter 131D of the General Statutes reads
16 as rewritten:

17 **"ARTICLE 4.**

18 **"TEMPORARY MANAGEMENT OF ~~DOMICILIARY HOMES~~. ADULT CARE**
19 **HOMES."**

20 Sec. 18. G.S. 131D-35 reads as rewritten:

21 **"§ 131D-35. Temporary management of ~~domiciliary homes~~. adult care homes.**

22 The provisions of Article 13 of Chapter 131E are incorporated by reference in this
23 Article."

24 Sec. 19. G.S. 131E-16(15) reads as rewritten:

- 25 "(15) 'Hospital facilities' means any one or more buildings, structures,
26 additions, extensions, improvements or other facilities, whether or not
27 located on the same site or sites, machinery, equipment, furnishings or
28 other real or personal property suitable for health care or medical care;
29 and includes, without limitation, general hospitals; chronic disease,
30 maternity, mental, tuberculosis and other specialized hospitals; nursing
31 homes, including skilled nursing facilities and intermediate care
32 facilities; ~~domiciliary homes~~ adult care homes for the aged and disabled;
33 public health center facilities; housing or quarters for local public health
34 departments; facilities for intensive care and self-care; clinics and
35 outpatient facilities; clinical, pathological and other laboratories; health
36 care research facilities; laundries; residences and training facilities for
37 nurses, interns, physicians and other staff members; food preparation
38 and food service facilities; administrative buildings, central service and
39 other administrative facilities; communication, computer and other
40 electronic facilities; fire-fighting facilities; pharmaceutical and
41 recreational facilities; storage space; X ray, laser, radiotherapy and other
42 apparatus and equipment; dispensaries; utilities; vehicular parking lots
43 and garages; office facilities for hospital staff members and physicians;

1 and such other health and hospital facilities customarily under the
2 jurisdiction of or provided by hospitals, or any combination of the
3 foregoing, with all necessary, convenient or related interests in land,
4 machinery, apparatus, appliances, equipment, furnishings,
5 appurtenances, site preparation, landscaping and physical amenities."

6 Sec. 20. G.S. 131E-76(3) reads as rewritten:

7 "(3) 'Hospital' means any facility which has an organized medical staff and
8 which is designed, used, and operated to provide health care, diagnostic
9 and therapeutic services, and continuous nursing care primarily to
10 inpatients where such care and services are rendered under the
11 supervision and direction of physicians licensed under Chapter 90 of the
12 General Statutes, Article 1, to two or more persons over a period in
13 excess of 24 hours. The term includes facilities for the diagnosis and
14 treatment of disorders within the scope of specific health specialties.
15 The term does not include private mental facilities licensed under
16 Article 2 of Chapter 122C of the General Statutes, nursing homes
17 licensed under G.S. 131E-102, and ~~domiciliary homes~~ adult care homes
18 licensed under G.S. 131D-2."

19 Sec. 21. G.S. 131E-101 reads as rewritten:

20 **"§ 131E-101. Definitions.**

21 As used in this Part, unless otherwise specified:

- 22 (1) 'Combination home' means a nursing home offering one or more levels
23 of care, including any combination of skilled nursing, intermediate care,
24 and ~~domiciliary home~~ adult care home.
- 25 (2) 'Commission' means the North Carolina Medical Care Commission.
- 26 (3) 'Community advisory committee' means a nursing home advisory
27 committee established for the statutory purpose of working to carry out
28 the intent of the Nursing Home Patients' Bill of Rights (Chapter 131E,
29 Article 6, Part B) in accordance with G.S. 143B-181.1.
- 30 (4) ~~'Domiciliary home,'~~ 'Adult care home', as distinguished from a nursing
31 home, means a facility operated as a part of a nursing home and which
32 provides residential care for aged or disabled persons whose principal
33 need is a home with the ~~sheltered~~ shelter or personal care their age or
34 disability requires. Medical care in a ~~domiciliary home~~ an adult care
35 home is usually occasional or incidental, such as may be required in the
36 home of any individual or family, but the administration of medication
37 is supervised. Continuing planned medical and nursing care to meet the
38 resident's needs may be provided under the direct supervision of a
39 physician, nurse, or home health agency. ~~Domiciliary homes~~ Adult care
40 homes are to be distinguished from nursing homes subject to licensure
41 under this Part. ~~The three types of domiciliary homes are homes for the aged~~
42 ~~and disabled, family care homes and group homes for developmentally~~
43 ~~disabled adults.~~

- 1 (5) 'Medical review committee' means a committee of a State or local
2 professional society, of a medical staff of a licensed hospital, of
3 physicians having privileges within the nursing home or of a peer
4 review corporation or organization which is formed for the purpose of
5 evaluating the quality, cost of or necessity for health care services under
6 applicable federal statutes.
- 7 (6) 'Nursing home' means a facility, however named, which is advertised,
8 announced, or maintained for the express or implied purpose of
9 providing nursing or convalescent care for three or more persons
10 unrelated to the licensee. A 'nursing home' is a home for chronic or
11 convalescent patients, who, on admission, are not as a rule, acutely ill
12 and who do not usually require special facilities such as an operating
13 room, X-ray facilities, laboratory facilities, and obstetrical facilities. A
14 'nursing home' provides care for persons who have remedial ailments or
15 other ailments, for which medical and nursing care are indicated; who,
16 however, are not sick enough to require general hospital care. Nursing
17 care is their primary need, but they will require continuing medical
18 supervision.
- 19 (7) 'Peer review committee' means any committee appointed in accordance
20 with G.S. 131E-108, 'Peer review.'

21 Sec. 22. G.S. 131E-104(b) reads as rewritten:

22 "(b) The Commission shall adopt rules for the operation of the ~~domiciliary-adult care~~
23 portion of a combination home that are equal to the rules adopted by the Social Services
24 Commission for the operation of freestanding ~~domiciliary homes-adult care homes~~. The
25 ~~domiciliary-adult care~~ portion of a combination home in existence on January 1, 1982,
26 shall be exempt from physical plant minimum standards, unless the Department
27 determines the exemption to be an imminent hazard to health, safety and welfare of the
28 residents."

29 Sec. 23. G.S. 131E-105(a) reads as rewritten:

30 "(a) The Department shall inspect any nursing home and any ~~domiciliary home-adult~~
31 ~~care home~~ operated as a part of a nursing home in accordance with rules adopted by the
32 Commission."

33 Sec. 24. G.S. 131E-106 reads as rewritten:

34 **"§ 131E-106. Evaluation of residents in ~~domiciliary homes-adult care homes~~.**

35 The Department shall prescribe the method of evaluation of residents in the
36 ~~domiciliary-adult care~~ portion of a combination home in order to determine when any of
37 these residents is in need of professional medical and nursing care as provided in licensed
38 nursing homes."

39 Sec. 25. G.S. 131E-115 reads as rewritten:

40 **"§ 131E-115. Legislative intent.**

41 It is the intent of the General Assembly to promote the interests and well-being of the
42 patients in nursing homes and ~~homes for the aged and disabled-adult care homes~~ licensed
43 pursuant to G.S. 131E-102, and patients in a nursing home operated by a hospital which

1 is licensed under Article 5 of G.S. Chapter 131E. It is the intent of the General Assembly
2 that every patient's civil and religious liberties, including the right to independent
3 personal decisions and knowledge of available choices, shall not be infringed and that the
4 facility shall encourage and assist the patient in the fullest possible exercise of these
5 rights."

6 Sec. 26. G.S. 131E-231(1) reads as rewritten:

7 "(1) 'Long-term care facility' means a nursing home as defined in ~~G.S. 131E-~~
8 ~~101(6), a domiciliary home as defined in G.S. 131D-2(a)(3), and a domiciliary~~
9 ~~home as defined in G.S. 131E-101(4).~~ G.S. 131E-101(6) and an adult care
10 home as defined in G.S. 131D-2(a)(3) or G.S. 131E-101(4)."

11 Sec. 27. G.S. 131E-242(a) reads as rewritten:

12 "(a) The Department shall establish a temporary management contingency fund
13 from the proceeds of penalties collected by the Department under the provisions of G.S.
14 131E-109 and G.S. 131E-129 for nursing facilities, and G.S. 131D-2 and G.S. 131D-34
15 for ~~domiciliary homes.~~ adult care homes."

16 Sec. 28. G.S. 135-40.6(2)d. reads as rewritten:

17 "d. Hospitalization for custodial, ~~domiciliary~~ adult care or sanitarium
18 care, or rest cures, is not covered."

19 Sec. 29. G.S. 135-40.7(2) reads as rewritten:

20 "(2) Charges for care in a nursing home, ~~home for the aged,~~ adult care home,
21 convalescent home, or in any other facility or location for custodial or
22 domiciliary care or for rest cures."

23 Sec. 30. G.S. 143-138(k) reads as rewritten:

24 "(k) For purposes of use in the Code, the term 'Family Care Home' shall mean a
25 ~~domiciliary home~~ an adult care home having two to six residents."

26 Sec. 31. G.S. 143B-139.5 reads as rewritten:

27 "**§ 143B-139.5. Department of Human Resources; ~~domiciliary~~ adult care**
28 **State/county share of costs.**

29 State funds available to the Department of Human Resources shall pay fifty percent
30 (50%), and the counties shall pay fifty percent (50%) of the authorized rates for
31 ~~domiciliary care in homes for the aged and for family care homes~~ adult care homes including
32 area mental health agency-operated or contracted-group homes."

33 Sec. 32. G.S. 143B-153(3) reads as rewritten:

34 "(3) The Social Services Commission shall have the power and duty to
35 establish and adopt standards:

36 a. For the inspection and licensing of maternity homes as provided
37 by G.S. 131D-1;

38 b. For the inspection and licensing of ~~domiciliary homes~~ adult care
39 homes for aged or disabled persons as provided by G.S. 131D-
40 2(b) and for personnel requirements of staff employed in
41 ~~domiciliary homes.~~ adult care homes. Any proposed personnel
42 requirements that would impose additional costs on owners of
43 ~~domiciliary homes~~ adult care homes shall be reviewed by the Joint

Legislative Commission on Governmental Operations before they are adopted;"

Sec. 33. G.S. 143B-178(2) reads as rewritten:

"(2) The term 'services for persons with developmental disabilities,' as it is used in this Article, means:

- a. Alternative community living arrangement services, employment related activities, child development services, and case management services; and
- b. Any other specialized services or special adaptations of generic services including diagnosis, evaluation, treatment, personal care, day care, ~~domiciliary care,~~ adult care, special living arrangements, training, education, sheltered employment, recreation and socialization, counseling of the individual with such a disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, nonvocational social-developmental services, and transportation services necessary to assure delivery of services to persons with developmental disabilities, and services to promote and coordinate activities to prevent developmental disabilities."

Sec. 34. G.S. 143B-181.10(c) reads as rewritten:

"(c) Respite care services provided by the programs established by this section may include:

- (1) Counseling and training in the caregiving role, including coping mechanisms and behavior modification techniques;
- (2) Counseling and accessing available local, regional, and State services;
- (3) Support group development and facilitation;
- (4) Assessment and care planning for the patient of the caregiver;
- (5) Attendance and companion services for the patient in order to provide release time to the caregiver;
- (6) Personal care services, including meal preparation, for the patient of the caregiver;
- (7) Temporarily placing the person out of his home to provide the caregiver total respite when the mental or physical stress on the caregiver necessitates this type of respite.

Program funds may provide no more than the current ~~domiciliary home~~ adult care reimbursement rate for out of home placement. An out of home placement is defined as placement in a hospital, skilled or intermediate nursing facility, ~~domiciliary home,~~ adult care home, adult day health center, or adult day care center. Duration of the service period may extend beyond a year."

Sec. 35. G.S. 143B-181.16(1) reads as rewritten:

"(1) 'Long-term care facility' means any skilled nursing facility and intermediate care facility as defined in ~~G.S. 131A-4~~ G.S. 131A-3(4) or any ~~domiciliary home~~ adult care home as defined in G.S. 131D-20(2)."

1 Sec. 36. G.S. 168-21(1) reads as rewritten:
2 "(1) 'Family care home' means ~~a home~~ an adult care home with support and
3 supervisory personnel that provides room and board, personal care and
4 habilitation services in a family environment for not more than six
5 resident handicapped persons."
6 Sec. 37. Rules adopted by the Department of Human Resources, the Medical
7 Care Commission, and the Social Services Commission regulating domiciliary care
8 homes prior to the effective date of this act remain in effect for adult care homes until
9 amended or repealed.
10 Sec. 38. Unless otherwise specified, this act becomes effective October 1,
11 1995.