

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-443
HOUSE BILL 512

AN ACT TO CERTIFY ASSISTED LIVING RESIDENCE ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 20A.

"Assisted Living Administrator Act.

"§ 90-288.10. Title.

This Article shall be known as the Assisted Living Administrator Act.

"§ 90-288.11. Purpose.

The administrators of assisted living residences are responsible for the residents who require daily care to attend to their physical, mental, and emotional needs. Therefore, the certification of assisted living administrators is necessary to ensure adequate levels of care across the State and to protect public health, safety, and welfare.

"§ 90-288.12. Certification required; exemptions.

(a) No person shall perform or offer to perform services as an assisted living administrator unless the person has been certified under the provisions of this Article. A certificate granted under this Article shall be valid throughout the State.

(b) The provisions of this Article shall not apply to:

- (1) Combination homes as defined in G.S. 131E-101 and hospitals that contain adult care beds.
- (2) Family care homes as defined in G.S. 131D-2(a)(5).
- (3) Continuing care facilities, as defined in Article 64 of Chapter 58 of the General Statutes, if adult care beds are housed in the same facility as nursing home beds.

"§ 90-288.13. Definitions.

The following definitions apply in this Article:

- (1) Administrator-in-training. – An individual who serves a training period under the supervision of an approved preceptor.
- (2) Assisted living administrator. – An individual certified to operate, administer, manage, and supervise an assisted living residence or to share in the performance of these duties with another person who has been so certified.
- (3) Assisted living residence. – A facility defined in G.S. 131D-2(a)(1d), whether proprietary or nonprofit. The term also includes institutions

or facilities that are owned or administered by the federal or State government or any agency or political subdivision of the State government.

(4) Department. – The Department of Health and Human Services.

(5) Preceptor. – An individual who is certified by the Department as an assisted living administrator and who meets the requirements established by the Department to serve as a supervisor of administrators-in-training.

"§ 90-288.14. Assisted living administrator certification.

An applicant shall be certified by the Department as an assisted living administrator if the applicant meets all of the following qualifications:

(1) Is at least 21 years old.

(2) Provides a satisfactory criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the applicant. If the applicant has been a resident of this State for less than five years, the applicant shall provide a satisfactory criminal background report from both the State and National Repositories of Criminal Histories.

(3) Successfully completes the equivalent of two years of coursework at an accredited college or university or has a combination of education and experience as approved by the Department.

(4) Successfully completes a Department approved administrator-in-training program of at least 120 hours of study in courses relating to assisted living residences.

(5) Successfully completes a written examination administered by the Department.

"§ 90-288.15. Issuance, renewal, and replacement of certificates.

(a) The Department shall issue a certificate to any applicant who has satisfactorily met the requirements of this Article. The certificate shall show the full name of the person and an identification number and shall be signed by the Secretary of the Department. A certificate may not be transferred or assigned.

(b) All certificates shall expire on December 31 of the second year following issuance. All applications for renewal shall be filed with the Department and shall be accompanied by documentation of the certificate holder's completion of the annual continuing education requirements established by the Department regarding the management and operation of an assisted living residence.

(c) The Department shall replace any certificate that is lost, destroyed, or mutilated subject to rules established by the Department.

"§ 90-288.16. Certification by reciprocity.

The Department may grant, upon application, a certificate to a person who holds a valid certificate as an assisted living community administrator issued by another state if, in the Department's determination, the standards of competency for the certificate are substantially equivalent to those in this State.

"§ 90-288.17. Posting certificates.

Every person issued a certificate under this Article shall display the certificate prominently in the assisted living residence where the person works.

"§ 90-288.18. Adverse action on a certificate.

(a) Subject to subsection (b) of this section, the Department shall have the authority to deny a new or renewal application for a certificate, and to amend, recall, suspend, or revoke an existing certificate upon a determination that there has been a substantial failure to comply with the provisions of this Article or any rules promulgated under this Article.

(b) The provisions of Chapter 150B of the General Statutes shall govern all administrative action and judicial review in cases where the Department has taken action as described in subsection (a) of this section. A petition for a contested case shall be filed within 30 days after the Department mails the certificate holder a notice of its decision to deny a renewal application, or to recall, suspend, or revoke an existing certificate.

"§ 90-288.19. Reporting requirement.

The holder of a facility license issued pursuant to G.S. 131D-2 shall report any incidents of suspected abuse, neglect, or exploitation of persons residing in an assisted living residence by a person certified under this Article to the Health Care Personnel Registry.

"§ 90-288.20. Penalties.

A person who serves as an assisted living administrator without first obtaining a certificate from the Department is guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense."

Section 2. G.S. 131D-2(a)(1b) reads as rewritten:

"(1b) "Adult care home" is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. ~~Adult care homes and family care homes are subject to licensure by the Division of Facility Services."~~

Section 3. Notwithstanding the provisions of G.S. 90-288.14, as enacted in Section 1 of this act, the Department shall prior to December 31, 1999, grant a certificate to practice as an assisted living administrator to a person who has been actively engaged as an assisted living administrator in this State for at least one year. Any person who has been actively engaged as an assisted living administrator for less than one year shall satisfactorily complete a written exam administered by the

Department before issuance of a license. The Department may refuse to certify a person as an assisted living administrator if the person's compliance history review shows a pattern of noncompliance with State law or otherwise demonstrates disregard for the health safety, and welfare of residents in current or past facilities where the person has worked as an assisted living administrator.

Section 4. This act becomes effective January 1, 2000.

In the General Assembly read three times and ratified this the 19th day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:01 p.m. this 10th day of August, 1999