

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 2107*
Finance Committee Substitute Adopted 6/12/08
Third Edition Engrossed 6/18/08
House Committee Substitute Favorable 7/15/08

Short Title: Home Care Services.

(Public)

Sponsors:

Referred to:

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE LICENSURE REQUIREMENT FOR HOME CARE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-136 reads as rewritten:

"§ 131E-136. Definitions.

As used in this Part, unless otherwise specified:

- (1) "Commission" means the North Carolina Medical Care Commission.
- (1a) "Geographic service area" means the geographic area in which a licensed agency provides home care services.
- (2) "Home care agency" means a private or public organization that provides home care services.
- (2a) "Home care agency director" means the person having administrative responsibility for the operation of the licensed agency site.
- (2b) "Home care client" means an individual who receives home care services.
- (3) "Home care services" means any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:
 - a. Nursing care provided by or under the supervision of a registered ~~nurse;~~ nurse.
 - b. Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of temporary or permanent residence used as the individual's ~~home;~~ home.
 - c. Medical social ~~services;~~ services.

- 1 d. In-home aide services that involve hands-on care to an
2 ~~individual; individual.~~
3 e. ~~Infusion nursing services; and~~services.
4 f. Assistance with pulmonary care, pulmonary rehabilitation or
5 ventilation.
6 g. In-home companion, sitter, and respite care services provided to
7 an individual.
8 h. Homemaker services provided in combination with in-home
9 companion, sitter, respite, or other home care services.

10 The term does not include: health promotion, preventative health and
11 community health services provided by public health departments;
12 maternal and child health services provided by public health
13 departments, by employees of the Department of Health and Human
14 Services under G.S. 130A-124, or by developmental evaluation centers
15 under contract with the Department of Health and Human Services to
16 provide services under G.S. 130A-124; hospitals licensed under
17 Article 5 of Chapter 131E of the General Statutes when providing
18 follow-up care initiated to patients within six months after their
19 discharge from the hospital; facilities and programs operated under the
20 authority of G.S. 122C and providing services within the scope of
21 G.S. 122C; schools, when providing services pursuant to Article 9 of
22 Chapter 115C; the practice of midwifery by a person licensed under
23 Article 10A of Chapter 90 of the General Statutes; hospices licensed
24 under Article 10 of Chapter 131E of the General Statutes when
25 providing care to a hospice patient; an individual who engages solely
26 in providing his own services to other individuals; incidental health
27 care provided by an employee of a physician licensed to practice
28 medicine in North Carolina in the normal course of the physician's
29 practice; or nursing registries if the registry discloses to a client or the
30 client's responsible party, before providing any services, that (i) it is
31 not a licensed home care agency, and (ii) it does not make any
32 representations or guarantees concerning the training, supervision, or
33 competence of the personnel provided. The term 'sitter' does not
34 include child care facilities licensed in accordance with Chapter 110 of
35 the General Statutes. The term 'respite care' does not include facilities
36 or services licensed in accordance with Chapter 122C of the General
37 Statutes. The terms 'in-home companion,' 'sitter,' 'homemaker,' and
38 'respite care services' do not include (i) services certified or otherwise
39 overseen by the Department as not providing personal care or (ii)
40 services administered on a voluntary basis for which there is not
41 reimbursement from the recipient or anyone acting on the recipient's
42 behalf.

- 43 (4) "Home health agency" means a home care agency which is certified to
44 receive Medicare and Medicaid reimbursement for providing nursing

1 care, therapy, medical social services, and home health aide services
2 on a part-time, intermittent basis as set out in G.S. 131E-176(12), and
3 is thereby also subject to Article 9 of Chapter 131E."

4 **SECTION 2.** G.S. 131E-138 reads as rewritten:

5 "**§ 131E-138. Licensure requirements.**

6 (a) No person or governmental unit shall operate a home care agency without a
7 license obtained from the Department. Nothing in this Part shall be construed to extend
8 or modify the licensing of individual health professionals by the licensing boards for
9 their professions or to create any new professional license category.

10 (b) Repealed by Session Laws 1991, c. 59, s. 1.

11 (c) An application for a license shall be available from the Department, and each
12 application filed with the Department shall contain all information requested by the
13 Department. A license shall be granted to the applicant upon a determination by the
14 Department that the applicant has complied with the provisions of this Part and the rules
15 promulgated by the Commission under this Part. The Department shall charge the
16 applicant a nonrefundable annual license fee in the amount of ~~three hundred fifty dollars~~
17 ~~(\$350.00).~~ four hundred dollars (\$400.00).

18 (d) The Department shall renew the license in accordance with the rules of the
19 Commission.

20 (e) Each license shall be issued only for the premises and persons named in the
21 license and shall not be transferable or assignable except with the written approval of
22 the Department.

23 (f) The license shall be posted in a conspicuous place on the licensed premises.

24 (g) The Commission shall adopt rules to ensure that a home care agency shall be
25 deemed to meet the licensure requirements and issued a license without further review
26 or inspection if: (i) the agency is already certified or accredited by the Joint Commission
27 on Accreditation of Health Care Organizations, National League for Nursing, National
28 Home Caring Council, North Carolina Accreditation Commission for In-Home Aide
29 Services, or other entities recognized by the Commission and (ii) the agency is certified
30 or accredited for all of the home care services that it provides; or (iii) in the case of
31 continuing care retirement communities licensed by the North Carolina Department of
32 Insurance under Article 64 of Chapter 58 which also have nursing beds licensed by the
33 Department of Health and Human Services under Article 6 of Chapter 131E, the
34 Department certifies, as part of its licensure review or survey of the nursing beds, that
35 the facility also meets all of the rules and regulations adopted by the Commission
36 pursuant to this Part. The Department may, at its discretion, determine the frequency
37 and extent of the review and inspection of home health agencies already certified as
38 meeting federal requirements, but not more frequently than on an annual basis for
39 routine reviews."

40 **SECTION 3.** The North Carolina Medical Care Commission may adopt
41 rules to implement Section 1 of this act.

42 **SECTION 4.** Section 1 of this act becomes effective January 1, 2010.
43 Section 2 of this act becomes effective January 1, 2009. The remainder of this act is
44 effective when it becomes law.