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SESSION 1995

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SENATE BILL 502  
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Short Title: Asst. Living Req./AB.

(Public)

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Sponsors: Senator Rand.

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Referred to: Children and Human Resources

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March 28, 1995

A BILL TO BE ENTITLED

1  
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."

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

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

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- 3 (2) Repealed by Session Laws 1981, c. 383, s. 3.
- 4 (3) Repealed by Session Laws 1981, c. 383, s. 3.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

7 Notwithstanding the foregoing provisions of this subsection, the clerk shall pay, out of  
8 funds provided the deceased pursuant to G.S. 111-18 and Part 3 of Article 2 of Chapter  
9 108A of the General Statutes of North Carolina, any lawful claims for ~~domiciliary care~~  
10 ~~received by~~ provided by an adult care home to the deceased, incurred not more than 90  
11 days prior to his death. After the death of a spouse who died intestate and after the  
12 disbursements have been made in accordance with this subsection, the balance in the  
13 clerk's hands belonging to the estate of the decedent shall be paid to the surviving spouse,  
14 and if there is no surviving spouse, the clerk shall pay it to the heirs in proportion to their  
15 respective interests."

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

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

- 21 (1) 'Adult day care program' shall be defined in accordance with the
- 22 provisions of G.S. 131D-6(b).
- 23 (2) 'Chore' services include the performance of tasks incidental to activities
- 24 of daily living that do not require the services of a trained homemaker or
- 25 other specialist. Such services are provided to enable individuals to
- 26 remain in their own homes and may include such services as: assistance
- 27 in meeting basic care needs such as meal preparation; shopping for food
- 28 and other necessities; running necessary errands; providing
- 29 transportation to essential service facilities; care and cleaning of the
- 30 house, grounds, clothing, and linens.
- 31 (3) 'Combination home' shall be defined in accordance with the terms of
- 32 G.S. 131E-101(1).
- 33 (4) ~~'Domiciliary home'~~ 'Adult care home' shall be defined in accordance with
- 34 the terms of G.S. 131D-2(a)(3).
- 35 (5) 'Family care home' shall be defined in accordance with the terms of G.S.
- 36 131D-2(a)(5).
- 37 (6) 'Group home for developmentally disabled adults' shall be defined in
- 38 accordance with the terms of G.S. 131D-2(a)(6).
- 39 ~~(7) 'Home for the aged and disabled' shall be defined in accordance with the~~
- 40 ~~terms of G.S. 131D-2(a)(7).~~
- 41 (8) 'Home health services' shall be defined in accordance with the terms of
- 42 G.S. 131E-136(3).

- 1 (9) 'Homemaker services' means supportive services provided by qualified  
2 para-professionals who are trained, equipped, assigned, and supervised  
3 by professionals within the agency to help maintain, strengthen, and  
4 safeguard the care of the elderly in their own homes. These standards  
5 must, at a minimum, meet standards established by the North Carolina  
6 Division of Social Services and may include: Providing assistance in  
7 management of household budgets; planning nutritious meals;  
8 purchasing and preparing foods; housekeeping duties; consumer  
9 education; and basic personal and health care.
- 10 (10) 'Hospice' shall be defined in accordance with the terms of G.S. 131E-  
11 176(13a).
- 12 (11) 'Intermediate care facility' shall be defined in accordance with the terms  
13 of G.S. 131E-176(14b).
- 14 (12) 'Nursing home' shall be defined in accordance with the terms of G.S.  
15 131E-101(6).
- 16 (13) 'Respite care, institutional' means provision of temporary support to the  
17 primary caregiver of the aged, disabled, or handicapped individual by  
18 taking over the tasks of that person for a limited period of time. The  
19 insured receives care for the respite period in an institutional setting,  
20 such as a nursing home, family care home, rest home, or other  
21 appropriate setting.
- 22 (14) 'Respite care, non-institutional' means provision of temporary support to  
23 the primary caregiver of the aged, disabled, or handicapped individual  
24 by taking over the tasks of that person for a limited period of time in the  
25 home of the insured or other appropriate community location.
- 26 (15) 'Skilled Nursing Facility' shall be defined in accordance with the terms  
27 of G.S. 131E-176(23)."
- 28 Sec. 4. G.S. 108A-14(a) reads as rewritten:
- 29 "(a) The director of social services shall have the following duties and  
30 responsibilities:
- 31 (1) To serve as executive officer of the board of social services and act as  
32 its secretary;
- 33 (2) To appoint necessary personnel of the county department of social  
34 services in accordance with the merit system rules of the State Personnel  
35 Commission;
- 36 (3) To administer the programs of public assistance and social services  
37 established by this Chapter under pertinent rules and regulations;
- 38 (4) To administer funds provided by the board of commissioners for the  
39 care of indigent persons in the county under policies approved by the  
40 county board of social services;
- 41 (5) To act as agent of the Social Services Commission and Department of  
42 Human Resources in relation to work required by the Social Services  
43 Commission and Department of Human Resources in the county;

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

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

24 "(a) Assistance shall be granted under this Part to all persons in ~~domiciliary facilities~~  
25 adult care homes for care found to be essential in accordance with the rules and  
26 regulations adopted by the Social Services Commission and prescribed by G.S. 108A-  
27 42(b)."

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

29 **"§ 108A-47. Limitations on payments.**

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

- 33 (1) A member of the Social Services Commission, of any county board of  
34 social services, or of any board of county commissioners;  
35 (2) An official or employee of the Department or of any county department  
36 of social services;  
37 (3) A spouse of a person designated in subdivisions (1) and (2)."

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

- 39 "(8) ~~Rest Home~~ Adult Care Home Resident Fishing License – No charge.  
40 This license shall be issued only to an individual resident of the State  
41 who resides in a ~~domiciliary home~~ an adult care home as defined in G.S.  
42 131D-2(a)(3) or G.S. 131E-101(4). This license is valid for the life of

1 the individual so long as ~~he~~ the individual remains a resident of a  
2 domiciliary home ~~an adult care home~~."

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

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

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

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

23 "**§ 131D-2. Licensing of ~~domiciliary homes~~ adult care homes for the aged and  
24 disabled.**

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

- 26 (1) 'Abuse' means the willful or grossly negligent infliction of physical  
27 pain, injury or mental anguish, unreasonable confinement, or the willful  
28 or grossly negligent deprivation by the administrator or staff of a  
29 ~~domiciliary home~~ an adult care home of services which are necessary to  
30 maintain mental and physical health.
- 31 (1a) 'Adult care home' is an assisted living residence in which the housing  
32 management provides 24-hour scheduled and unscheduled personal care  
33 services to two or more residents, either directly or, for scheduled needs,  
34 through formal written agreement with licensed home care or hospice  
35 agencies. Some licensed adult care homes provide supervision to  
36 persons with cognitive impairments whose decisions, if made  
37 independently, may jeopardize the safety or well-being of themselves or  
38 others and therefore require supervision. Medication in an adult care  
39 home may be administered by designated, trained staff. Adult care  
40 homes that provide care to two to six unrelated residents are commonly  
41 called family care homes. Adult care homes and family care homes are  
42 subject to licensure by the Division of Facility Services.

- 1           (1b) 'Amenities' means services such as meals, housekeeping, transportation,  
2           and grocery shopping that do not involve hands-on personal care.
- 3           (1c) 'Assisted living residence' means any group housing and services  
4           program for two or more unrelated adults, by whatever name it is called,  
5           that makes available, at a minimum, one meal a day and housekeeping  
6           services and provides personal care services directly or through a formal  
7           written agreement with one or more licensed home care or hospice  
8           agencies. The Department may allow nursing service exceptions on a  
9           case-by-case basis. Settings in which services are delivered may include  
10           self-contained apartment units or single or shared room units with  
11           private or area baths. Assisted living residences are to be distinguished  
12           from nursing homes subject to provisions of G.S. 131E-102. Effective  
13           July 1, 1995, there are two types of assisted living residences: adult care  
14           homes and group homes for developmentally disabled adults. Effective  
15           July 1, 1996, there is a third type, multiunit independent housing with  
16           services.
- 17           (1d) 'Compensatory agent' means a spouse, relative, or other caretaker who  
18           lives with a resident and provides care to a resident.
- 19           (2) 'Developmentally disabled adult' means a person who has attained the  
20           age of 18 years and who has a developmental disability defined as a  
21           severe, chronic disability of a person which:  
22           a. Is attributed to a mental or physical impairment or combination  
23           of mental and physical impairments;  
24           b. Is manifested before the person attains age 22;  
25           c. Is likely to continue indefinitely;  
26           d. Results in substantial functional limitations in three or more of  
27           the following areas of major life activity: (i) self-care, (ii)  
28           receptive and expressive language, (iii) learning, (iv) mobility,  
29           (v) self-direction, (vi) capacity for independent living, and (vii)  
30           economic self-sufficiency; and  
31           e. Reflects the person's need for a combination and sequence of  
32           special, interdisciplinary, or generic care, treatment, or other  
33           services which are of lifelong or extended duration and are  
34           individually planned and coordinated.
- 35           (3) ~~'Domiciliary home' means any facility, by whatever name it is called,~~  
36           ~~which provides residential care for aged or disabled persons whose~~  
37           ~~principal need is a home which provides the supervision and personal~~  
38           ~~care appropriate to their age or disability. Medical care at a domiciliary~~  
39           ~~home is only occasional or incidental, such as may be given in the home~~  
40           ~~of any individual or family, but medication is administered by~~  
41           ~~designated staff of the home. Personal care given in a domiciliary home~~  
42           ~~includes direct assistance, by designated staff, to residents in personal~~  
43           ~~grooming, bathing, dressing, feeding, shopping, laundering clothes,~~

1 ~~handling personal finances, arranging transportation, scheduling~~  
2 ~~medical or business appointments, as well as attending to any personal~~  
3 ~~needs residents may be incapable of or unable to attend for themselves.~~  
4 ~~Domiciliary homes are to be distinguished from nursing homes subject~~  
5 ~~to licensure under G.S. 131E-102. The three types of domiciliary~~  
6 ~~homes are homes for the aged and disabled, family care homes and~~  
7 ~~group homes for developmentally disabled adults.~~

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

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

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

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

21 (7a) Effective July 1, 1996, 'multiunit independent housing with services'  
22 means an assisted living residence in which hands-on personal care  
23 services and nursing services which are arranged by housing  
24 management are provided by a licensed home care or hospice agency,  
25 through an individualized written care plan. The housing management  
26 has a financial interest or financial affiliation or formal written  
27 agreement which makes personal care services accessible and available  
28 through at least one licensed home care or hospice agency. The resident  
29 has a choice of any provider, and the housing management may not  
30 combine charges for housing and personal care services. All residents,  
31 or their compensatory agents, must be capable, through informed  
32 consent, of entering into a contract and must not be in need of 24-hour  
33 supervision. Assistance with self-administration of medications may be  
34 provided by appropriately trained staff when delegated by a licensed  
35 nurse according to the home care agency's established plan of care.  
36 Multiunit independent housing with services programs are required to  
37 register with the Division of Facility Services and provide a disclosure  
38 statement to the Division and as a part of a required annual rental  
39 contract that includes a description of the required emergency response  
40 system, charges for services offered, limitations of tenancy, limitations  
41 of services, resident responsibilities, financial/legal relationship between  
42 housing management and home care or hospice agencies, a listing of all  
43 home care or hospice agencies and other community services in the

1 area, an appeals process, and procedures for required initial and annual  
2 resident screening and referrals for services. Continuing care retirement  
3 communities, subject to regulation by the Department of Insurance  
4 under Chapter 58 of the General Statutes, are exempt from the  
5 regulatory requirements for multiunit independent housing with services  
6 programs.

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

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

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

14 (a1) Persons not to be cared for in adult care homes. Adult care homes shall not  
15 care for individuals with any of the following conditions or care needs:

16 (1) ventilator dependency;

17 (2) individuals requiring continuous licensed nursing care;

18 (3) individuals whose physician certifies that placement is no longer  
19 appropriate;

20 (4) individuals whose health needs cannot be met in the specific adult care  
21 home as determined by the residence, and

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

24 (a2) Persons not to be cared for in multiunit independent housing with services.  
25 Multiunit independent housing with services shall not care for individuals with any of the  
26 following conditions or care needs:

27 (1) ventilator dependency;

28 (2) dermal ulcers III and IV, except those stage III ulcers which are  
29 determined by an independent physician to be healing;

30 (3) intravenous therapy or injections directly into the vein, except for  
31 intermittent intravenous therapy managed by a home care of hospice  
32 agency licensed in this State;

33 (4) airborne infectious disease in a communicable state that requires  
34 isolation of the individual or requires special precautions by the  
35 caretaker to prevent transmission of the disease, including diseases such  
36 as tuberculosis and excluding infections such as the common cold;

37 (5) psychotropic medications without appropriate diagnosis and treatment  
38 plans;

39 (6) nasogastric tubes;

40 (7) gastric tubes except when the individual is capable of independently  
41 feeding himself and caring for the tube, or as managed by a home care  
42 or hospice agency licensed in this State;

43 (8) individuals requiring continuous licensed nursing care;



- 1           (9) individuals whose physician certifies that placement is no longer  
2 appropriate;
- 3           (10) unless the individual's independent physician determines otherwise,  
4 individuals who require maximum physical assistance as documented  
5 by a uniform assessment instrument and who meet Medicaid nursing  
6 facility level-of-care criteria as defined in the State Plan for Medical  
7 Assistance. Maximum physical assistance means that an individual has  
8 a rating of total dependence in four or more of the seven activities of  
9 daily living as document on a uniform assessment instrument;
- 10          (11) individuals whose health needs cannot be met in the specific multiunit  
11 independent housing with services as determined by the residence; and
- 12          (12) such other medical and functional care needs as the Social Services  
13 Commission determines cannot be properly met in multiunit  
14 independent housing with services.
- 15          (a3) Hospice care. At the request of the resident, hospice care may be provided in  
16 an assisted living residence under the same requirements for hospice programs as  
17 described in Article 10 of Chapter 131E of the General Statutes.
- 18          (b) Licensure; inspections. –
- 19               (1) The Department of Human Resources shall inspect and license, under  
20 rules adopted by the Social Services Commission, all ~~domiciliary homes~~  
21 adult care homes for persons who are aged or mentally or physically  
22 disabled except those exempt in subsection ~~(d)~~ (c) of this section.  
23 Licenses issued under the authority of this section shall be valid for one  
24 year from the date of issuance unless revoked earlier by the Secretary of  
25 Human Resources for failure to comply with any part of this section or  
26 any rules adopted hereunder. Licenses shall be renewed annually upon  
27 filing and the Department's approval of the renewal application. A  
28 license shall not be renewed if outstanding fines and penalties imposed  
29 by the State against the home have not been paid. Fines and penalties  
30 for which an appeal is pending are exempt from consideration. The  
31 renewal application shall contain all necessary and reasonable  
32 information that the Department may by rule require. The Department  
33 may also issue a provisional license to a facility, pursuant to rules  
34 adopted by the Social Services Commission, for substantial failure to  
35 comply with the provisions of this section or rules promulgated pursuant  
36 to this section. Any facility wishing to contest the issuance of a  
37 provisional license shall be entitled to an administrative hearing as  
38 provided in the Administrative Procedure Act, Chapter 150B of the  
39 General Statutes. A petition for a contested case shall be filed within 30  
40 days after the Department mails written notice of the issuance of the  
41 provisional license.
- 42               (1a) In addition to the licensing and inspection requirements mandated by  
43 subdivision (1) of this subsection, the Department shall ensure that

1           ~~domiciliary care facilities~~ adult care homes required to be licensed by this  
2 Article are monitored for licensure compliance on a regular basis. In  
3 carrying out this requirement, the Department shall work with county  
4 departments of social services to do the routine monitoring and to have  
5 the Division of Facility Services oversee this monitoring and perform  
6 any follow-up inspection called for.

7           (2) Any individual or corporation that establishes, conducts, manages, or  
8 operates a facility subject to licensure under this section without a  
9 license is guilty of a Class 3 misdemeanor, and upon conviction shall be  
10 punishable only by a fine of not more than fifty dollars (\$50.00) for the  
11 first offense and not more than five hundred dollars (\$500.00) for each  
12 subsequent offense. Each day of a continuing violation after conviction  
13 shall be considered a separate offense.

14           (3) In addition, the Department may summarily suspend a license pursuant  
15 to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,  
16 neglect, exploitation or any condition which presents an imminent  
17 danger to the health and safety of any resident of the home. Any facility  
18 wishing to contest summary suspension of a license shall be entitled to  
19 an administrative hearing as provided in the Administrative Procedure  
20 Act, Chapter 150B of the General Statutes. A petition for a contested  
21 case shall be filed within 20 days after the Department mails a notice of  
22 summary suspension to the licensee.

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

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

30           b. Any person involved in giving care or treatment at or through the  
31 facility may disclose information to Department representatives;  
32 unless the resident objects in writing to review of his records or  
33 disclosure of such information.

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

37           The Department shall not disclose:

38           a. Any confidential or privileged information obtained under this  
39 subsection unless the resident or his legal representative  
40 authorizes disclosure in writing or unless a court of competent  
41 jurisdiction orders disclosure, or

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

1           The Department shall institute appropriate policies and procedures to  
2           ensure that unauthorized disclosure does not occur. All confidential or  
3           privileged information obtained under this section and the names of  
4           persons providing such information shall be exempt from Chapter 132  
5           of the General Statutes.

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

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

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

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

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

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

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

18           (2) Persons subject to rules of the Division of Vocational Rehabilitation  
19 Services;

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

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

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

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

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

39           (c4) Housing programs for two or more unrelated adults that target their services to  
40 elderly or disabled persons in which the only services provided by the housing  
41 management, either directly or through an agreement or other arrangements, are  
42 amenities that include, at a minimum, one meal a day and housekeeping services, are  
43 exempt from licensure, but are required to be listed with the Division of Aging, providing

1 information on their location and number of units operated. This type of housing is not  
2 considered assisted living.

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

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

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

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

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

21 (1) In addition to the administrative penalties described in subsection (b),  
22 the Secretary may suspend the admission of any new residents to a  
23 ~~domiciliary home,~~ an adult care home, where the conditions of the  
24 ~~domiciliary home~~ adult care home are detrimental to the health or safety  
25 of the residents. This suspension shall be for the period determined by  
26 the Secretary and shall remain in effect until the Secretary is satisfied  
27 that conditions or circumstances merit removing the suspension.

28 (2) In imposing a suspension under this subsection, the Secretary shall  
29 consider the following factors:

30 a. The degree of sanctions necessary to ensure compliance with this  
31 section and rules adopted hereunder; and

32 b. The character and degree of impact of the conditions at the home  
33 on the health or safety of its residents.

34 (3) The Secretary of Human Resources shall adopt rules to implement this  
35 subsection.

36 (4) Any facility wishing to contest a suspension of admissions shall be  
37 entitled to an administrative hearing as provided in the Administrative  
38 Procedure Act, Chapter 150B of the General Statutes. A petition for a  
39 contested case shall be filed within 20 days after the Department mails a  
40 notice of suspension of admissions to the licensee.

41 (i) Notwithstanding the existence or pursuit of any other remedy, the Department  
42 of Human Resources may, in the manner provided by law, maintain an action in the name  
43 of the State for injunction or other process against any person to restrain or prevent the

1 establishment, conduct, management or operation of a ~~domiciliary home~~ an adult care  
2 home without a license. Such action shall be instituted in the superior court of the county  
3 in which any unlicensed activity has occurred or is occurring.

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

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

10 Sec. 9. G.S. 131D-3 reads as rewritten:

11 "**§ 131D-3. ~~Domiciliary care facilities;~~ Adult care homes; reporting requirements.**

12 (a) The Department of Human Resources, Division of Social Services, by January  
13 1, 1982, shall develop a cost and revenue reporting form for use by all ~~domiciliary care~~  
14 ~~facilities~~ adult care homes. This form shall be based on the uniform chart of accounts  
15 required in G.S. 131D-4. All facilities that receive funds under the State-County Special  
16 Assistance for Adults Program shall report total costs and revenues to the Department of  
17 Human Resources by March 1 of each year. Facilities licensed under the provisions of  
18 G.S. 131D-2(a)(5) shall report total costs and revenues beginning with a report that  
19 covers the twelve-month period beginning January 1, 1993. Facilities operated by or  
20 under contract with Area Mental Health, Developmental Disabilities, and Substance  
21 Abuse Authorities shall report total costs and revenues beginning with a report that  
22 covers the twelve-month period beginning July 1, 1992. Combination facilities providing  
23 either intermediate or skilled care in addition to ~~domiciliary care~~ adult care shall report  
24 total costs and revenues beginning with a report that covers the twelve-month period  
25 beginning October 1, 1992. All facilities shall be required to permit access to any  
26 requested financial records by representatives of the Department of Human Resources for  
27 audit purposes effective July 1, 1981.

28 (b) A certified public accountant or public accountant shall certify each cost and  
29 revenue report that is submitted pursuant to this section. The certification statement shall  
30 include the following certifications, validations, and verifications:

- 31 (1) The verification that the amounts reported in the cost report relate to the  
32 proper calendar year, and reconcile to the general ledger, tax return, and  
33 appropriate financial statements;
- 34 (2) The validation of payroll costs reported for federal form 941 returns;
- 35 (3) The verification that depreciation expense is supported by appropriate  
36 backup schedules;
- 37 (4) The verification that interest expense reported agrees with bank  
38 statements and other support documentation;
- 39 (5) The verification that food, utilities, and other vendor payments are  
40 adequately supported by source documents;
- 41 (6) The certification that rent and lease expenses are supported by rental or  
42 lease agreements; and

1 (7) The certification that data related to paid patient days are supported by  
2 adequate census.

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

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

6 (2) Suspend or revoke the facility's license, subject to the provisions of  
7 Chapter 150B."

8 Sec. 10. G.S. 131D-4 reads as rewritten:

9 **"§ 131D-4. ~~Domiciliary care facilities;~~ Adult care homes; uniform chart of accounts.**

10 The Department of Human Resources, Division of Social Services, by January 1,  
11 1982, shall develop a uniform chart of accounts for use by all ~~domiciliary care facilities~~  
12 adult care homes funded totally or in part through the State-County Special Assistance  
13 for Adults Program. The Division shall consult with representatives from the ~~domiciliary~~  
14 care-adult care industry in developing the new accounting system. The Division shall  
15 require ~~domiciliary care facilities~~ adult care homes covered by this section to implement  
16 this chart of accounts by January 1, 1983, unless otherwise provided by this section.  
17 Facilities licensed under the provisions of G.S. 131D-2(a)(5) shall implement this chart of  
18 accounts beginning with the twelve-month period beginning January 1, 1993. Facilities  
19 operated by or under contract with Area Mental Health, Developmental Disabilities, and  
20 Substance Abuse Authorities shall implement this chart of accounts beginning with the  
21 twelve-month period beginning July 1, 1992. Combination facilities providing either  
22 intermediate or skilled care in addition to ~~domiciliary care-adult care~~ shall implement this  
23 chart of accounts beginning with the twelve-month period beginning October 1, 1992.

24 The Department may take either or both of the following actions to enforce  
25 compliance by a facility with this section or to punish noncompliance:

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

27 (2) Suspend or revoke the facility's license, subject to the provisions of  
28 Chapter 150B."

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 licensed  
38 pursuant to G.S. 131D-2. It is the intent of the General Assembly that every resident's  
39 civil and religious liberties, including the right to independent personal decisions and  
40 knowledge of available choices, shall not be infringed and that the facility shall  
41 encourage and assist the resident in the fullest possible exercise of these rights."

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

43 **"§ 131D-20. Definitions.**

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

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

7 (2) ~~'Domiciliary home' means any facility, by whatever name it is called,~~  
8 ~~which provides residential care for aged or disabled persons whose~~  
9 ~~principal need is a home which provides the supervision and personal~~  
10 ~~care appropriate to their age or disability. Medical care at a domiciliary~~  
11 ~~home is only occasional or incidental, such as may be given in the home~~  
12 ~~of any individual or family, but medication is administered by~~  
13 ~~designated staff of the home. Personal care given in a domiciliary home~~  
14 ~~includes direct assistance, by designated staff, to residents in personal~~  
15 ~~grooming, bathing, dressing, feeding, shopping, laundering clothes,~~  
16 ~~handling personal finances, arranging transportation, scheduling~~  
17 ~~medical or business appointments, as well as attending to any personal~~  
18 ~~needs residents may be incapable of or unable to attend for themselves.~~  
19 ~~Domiciliary homes are to be distinguished from nursing homes subject~~  
20 ~~to licensure under G.S. 131E-102. The three types of domiciliary homes~~  
21 ~~are homes for the aged and disabled, family care homes and group~~  
22 ~~homes for developmentally disabled adults.~~

23 (2a) 'Adult care home' is an assisted living residence in which the housing  
24 management provides 24-hour scheduled and unscheduled personal care  
25 services to two or more residents, either directly or, for scheduled needs,  
26 through formal written agreement with licensed home care or hospice  
27 agencies. Some licensed adult care homes provide supervision to  
28 persons with cognitive impairments whose decisions, if made  
29 independently, may jeopardize the safety or well-being of themselves or  
30 others and therefore require supervision. Medication in an adult care  
31 home may be administered by designated, trained staff. Adult care  
32 homes that provide care to two to six unrelated residents are commonly  
33 called family care homes. Adult care homes and family care homes are  
34 subject to licensure by the Division of Facility Services.

35 (2b) 'Assisted living residence' means any group housing and services  
36 program for two or more unrelated adults, by whatever name it is called,  
37 that makes available, at a minimum, one meal a day and housekeeping  
38 services and provides personal care services directly or through a formal  
39 written agreement with one or more licensed home care or hospice  
40 agencies. The Department may allow nursing service exceptions on a  
41 case-by-case basis. Settings in which services are delivered may include  
42 self-contained apartment units or single or shared room units with

1 private or area baths. Assisted living residences are to be distinguished  
2 from nursing homes subject to provisions of G.S. 131E-102.

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

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

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

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

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

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

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

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

23 **"§ 131D-31. ~~Domiciliary home~~ Adult care home community advisory committees.**

24 (a) Statement of Purpose. – It is the intention of the General Assembly that  
25 community advisory committees work to maintain the intent of the ~~Domiciliary Home~~  
26 Adult Care Home Residents' Bill of Rights within the licensed ~~domiciliary homes~~ adult  
27 care homes in this State. It is the further intent of the General Assembly that the  
28 committees promote community involvement and cooperation with ~~domiciliary homes~~  
29 adult care homes to ensure quality care for the elderly and disabled adults.

30 (b) Establishment and Appointment of Committees. –

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

37 (2) In a county with four or more ~~homes for the aged and disabled~~, adult care  
38 homes with 10 or more beds, the committee shall have one additional  
39 member for each ~~home for the aged and disabled~~ adult care home with 10  
40 or more beds in excess of three, up to a maximum of 20 members. In  
41 each county with four or more ~~homes for the aged and disabled~~, adult care  
42 homes with 10 or more beds, the committee shall establish a  
43 subcommittee of no more than five members and no fewer than three



1 members from the committee for each ~~domiciliary home~~ adult care home  
2 in the county. Each member must serve on at least one subcommittee.

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

8 (4) The boards of county commissioners are encouraged to appoint the  
9 ~~Domiciliary Home~~ Adult Care Home Community Advisory Committees.  
10 Of the members, a minority (not less than one-third, but as close to one-  
11 third as possible) ~~must~~ shall be chosen from among persons nominated  
12 by a majority of the chief administrators of ~~domiciliary homes~~ adult care  
13 homes in the county. If the ~~domiciliary home~~ adult care home  
14 administrators fail to make a nomination within 45 days after written  
15 notification has been sent to them requesting a nomination, ~~such~~ these  
16 appointments may be made without nominations. If the county  
17 commissioners fail to appoint members to a committee by July 1, 1983,  
18 the appointments shall be made by the Assistant Secretary ~~on~~ for Aging,  
19 Department of Human Resources, no sooner than 45 days after  
20 nominations have been requested from the ~~domiciliary home~~ adult care  
21 home administrators, but no later than October 1, 1983. In making ~~his~~  
22 appointments, the Assistant Secretary for Aging shall follow the same  
23 appointment process as that specified for the County Commissioners.

24 (c) Joint ~~nursing~~ Nursing and ~~Domiciliary Home~~ Adult Care Home Community  
25 Advisory Committees. – Appointment to the Nursing Home Community Advisory  
26 Committees shall preclude appointment to the ~~Domiciliary Home~~ Adult Care Home  
27 Community Advisory Committees except where written approval to combine these  
28 committees is obtained from the Assistant Secretary ~~on~~ for Aging, Department of Human  
29 Resources. Where ~~such~~ this approval is obtained, the Joint Nursing and ~~Domiciliary Home~~  
30 Adult Care Home Community Advisory Committee shall have the membership required  
31 of Nursing Home Community Advisory Committees and one additional member for each  
32 ~~home for the aged and disabled present~~ adult care home with 10 or more beds licensed in the  
33 county. In counties with no ~~homes for the aged and disabled,~~ adult care homes with 10 or  
34 more beds, there shall be one additional member for every four ~~domiciliary homes~~ other  
35 types of adult care homes in the county. In no case shall the number of members on the  
36 Joint Nursing and ~~Domiciliary Home~~ Adult Care Home Community Advisory Committee  
37 exceed 25. Each member shall exercise the statutory rights and responsibilities of both  
38 Nursing Home Committees and ~~Domiciliary Home~~ Adult Care Home Committees. In  
39 making appointments to this joint committee, the county commissioners shall solicit  
40 nominations from both nursing and ~~domiciliary home~~ adult care home administrators for  
41 the appointment of approximately (but no more than) one-third of the members.

42 (d) Terms of Office. – Each committee member shall serve an initial term of one  
43 year. Any person reappointed to a second or subsequent term in the same county shall

1 serve a two- or three-year term at the county commissioners' discretion to ensure  
2 staggered terms of office.

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

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

15 (g) Minimum Qualifications for Appointment. – Each member must be a resident  
16 of the county which the committee serves. No person or immediate family member of a  
17 person with a financial interest in a home served by the committee, or employee or  
18 governing board member of a home served by the committee, or immediate family  
19 member of a resident in a home served by the committee may be a member of that  
20 committee. Any county commissioner who is appointed to the committee shall be  
21 deemed to be serving on the committee in an ex officio capacity. Members of the  
22 committee shall serve without compensation, but may be reimbursed for actual expenses  
23 incurred by them in the performance of their duties. The names of the committee  
24 members and the date of expiration of their terms shall be filed with the Division of  
25 Aging, Department of Human Resources.

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

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

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

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

1 **"§ 131D-32. Functions of ~~domiciliary home~~ adult care home community advisory**  
2 **committees.**

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

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

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

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

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

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

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

40 (h) The individual members of the committee shall have the right between 10:00  
41 a.m. and 8:00 p.m. to enter the facility the committee serves in order to carry out the  
42 members' responsibilities. In a county where subcommittees have been established, this  
43 right of access shall be limited to members of the subcommittee which serves that home.

1 A majority of the committee or subcommittee members ~~must~~ shall be present to enter the  
2 facility at other hours. Before entering any ~~domiciliary home,~~ adult care home, the  
3 committee or members of the committee shall identify themselves to the person present at  
4 the facility who is in charge of the facility at that time.

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

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

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

13 "(h) The Secretary shall establish a penalty review committee within the  
14 Department, which shall review administrative penalties assessed pursuant to this section  
15 and pursuant to G.S. 131E-129. The Secretary shall ensure that departmental staff review  
16 of local departments of social services' penalty recommendations along with prepared  
17 staff recommendations for the penalty review committee are completed within 60 days of  
18 receipt by the Department of the local recommendations. The Penalty Review  
19 Committee shall not review penalty recommendations agreed to by the Department and  
20 the long-term care facility for Type B violations except those violations that have been  
21 previously cited against the long-term care facility during the previous 12 months or  
22 within the time period of the previous licensure inspection, whichever time period is  
23 longer. The Secretary shall ensure that the ~~Nursing Home/Rest Home~~ Nursing Home/Adult  
24 Care Home Penalty Review Committee established by this subsection is comprised of  
25 nine members. At least one member shall be appointed from each of the following  
26 categories:

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

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

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

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

41 **"ARTICLE 4.**

42 **"TEMPORARY MANAGEMENT OF ~~DOMICILIARY HOMES.~~ ADULT CARE**  
43 **HOMES."**

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

2 **"§ 131D-35. Temporary management of ~~domiciliary homes~~. adult care homes.**

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

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

6       "(15) 'Hospital facilities' means any one or more buildings, structures,  
7       additions, extensions, improvements or other facilities, whether or not  
8       located on the same site or sites, machinery, equipment, furnishings or  
9       other real or personal property suitable for health care or medical care;  
10      and includes, without limitation, general hospitals; chronic disease,  
11      maternity, mental, tuberculosis and other specialized hospitals; nursing  
12      homes, including skilled nursing facilities and intermediate care  
13      facilities; ~~domiciliary homes~~ adult care homes for the aged and disabled;  
14      public health center facilities; housing or quarters for local public health  
15      departments; facilities for intensive care and self-care; clinics and  
16      outpatient facilities; clinical, pathological and other laboratories; health  
17      care research facilities; laundries; residences and training facilities for  
18      nurses, interns, physicians and other staff members; food preparation  
19      and food service facilities; administrative buildings, central service and  
20      other administrative facilities; communication, computer and other  
21      electronic facilities; fire-fighting facilities; pharmaceutical and  
22      recreational facilities; storage space; X ray, laser, radiotherapy and other  
23      apparatus and equipment; dispensaries; utilities; vehicular parking lots  
24      and garages; office facilities for hospital staff members and physicians;  
25      and such other health and hospital facilities customarily under the  
26      jurisdiction of or provided by hospitals, or any combination of the  
27      foregoing, with all necessary, convenient or related interests in land,  
28      machinery, apparatus, appliances, equipment, furnishings,  
29      appurtenances, site preparation, landscaping and physical amenities."

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

31       "(3) 'Hospital' means any facility which has an organized medical staff and  
32       which is designed, used, and operated to provide health care, diagnostic  
33       and therapeutic services, and continuous nursing care primarily to  
34       inpatients where such care and services are rendered under the  
35       supervision and direction of physicians licensed under Chapter 90 of the  
36       General Statutes, Article 1, to two or more persons over a period in  
37       excess of 24 hours. The term includes facilities for the diagnosis and  
38       treatment of disorders within the scope of specific health specialties.  
39       The term does not include private mental facilities licensed under  
40       Article 2 of Chapter 122C of the General Statutes, nursing homes  
41       licensed under G.S. 131E-102, and ~~domiciliary homes~~ adult care homes  
42       licensed under G.S. 131D-2."

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

1 **"§ 131E-101. Definitions.**

2 As used in this Part, unless otherwise specified:

- 3 (1) 'Combination home' means a nursing home offering one or more levels  
4 of care, including any combination of skilled nursing, intermediate care,  
5 and ~~domiciliary home~~ adult care home.
- 6 (2) 'Commission' means the North Carolina Medical Care Commission.
- 7 (3) 'Community advisory committee' means a nursing home advisory  
8 committee established for the statutory purpose of working to carry out  
9 the intent of the Nursing Home Patients' Bill of Rights (Chapter 131E,  
10 Article 6, Part B) in accordance with G.S. 143B-181.1.
- 11 (4) ~~'Domiciliary home,'~~ 'Adult care home', as distinguished from a nursing  
12 home, means a facility operated as a part of a nursing home and which  
13 provides residential care for aged or disabled persons whose principal  
14 need is a home with the ~~sheltered shelter~~ or personal care their age or  
15 disability requires. Medical care in a ~~domiciliary home~~ an adult care  
16 home is usually occasional or incidental, such as may be required in the  
17 home of any individual or family, but the administration of medication  
18 is supervised. Continuing planned medical and nursing care to meet the  
19 resident's needs may be provided under the direct supervision of a  
20 physician, nurse, or home health agency. ~~Domiciliary homes~~ Adult care  
21 homes are to be distinguished from nursing homes subject to licensure  
22 under this Part. ~~The three types of domiciliary homes are homes for the aged~~  
23 ~~and disabled, family care homes and group homes for developmentally~~  
24 ~~disabled adults.~~
- 25 (5) 'Medical review committee' means a committee of a State or local  
26 professional society, of a medical staff of a licensed hospital, of  
27 physicians having privileges within the nursing home or of a peer  
28 review corporation or organization which is formed for the purpose of  
29 evaluating the quality, cost of or necessity for health care services under  
30 applicable federal statutes.
- 31 (6) 'Nursing home' means a facility, however named, which is advertised,  
32 announced, or maintained for the express or implied purpose of  
33 providing nursing or convalescent care for three or more persons  
34 unrelated to the licensee. A 'nursing home' is a home for chronic or  
35 convalescent patients, who, on admission, are not as a rule, acutely ill  
36 and who do not usually require special facilities such as an operating  
37 room, X-ray facilities, laboratory facilities, and obstetrical facilities. A  
38 'nursing home' provides care for persons who have remedial ailments or  
39 other ailments, for which medical and nursing care are indicated; who,  
40 however, are not sick enough to require general hospital care. Nursing  
41 care is their primary need, but they will require continuing medical  
42 supervision.

1 (7) 'Peer review committee' means any committee appointed in accordance  
2 with G.S. 131E-108, 'Peer review.'

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

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

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

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

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

16 **"§ 131E-106. Evaluation of residents in ~~domiciliary homes~~-adult care homes.**

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

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

22 **"§ 131E-115. Legislative intent.**

23 It is the intent of the General Assembly to promote the interests and well-being of the  
24 patients in nursing homes and ~~homes for the aged and disabled~~-adult care homes licensed  
25 pursuant to G.S. 131E-102, and patients in a nursing home operated by a hospital which  
26 is licensed under Article 5 of G.S. Chapter 131E. It is the intent of the General Assembly  
27 that every patient's civil and religious liberties, including the right to independent  
28 personal decisions and knowledge of available choices, shall not be infringed and that the  
29 facility shall encourage and assist the patient in the fullest possible exercise of these  
30 rights."

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

32 "(1) 'Long-term care facility' means a nursing home as defined in G.S. 131E-  
33 101(6), a ~~domiciliary home as defined in G.S. 131D-2(a)(3)~~, and a ~~domiciliary~~  
34 ~~home as defined in G.S. 131E-101(4)~~-G.S. 131E-101(6) and an adult care  
35 home as defined in G.S. 131D-2(a)(3) or G.S. 131E-101(4)."

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

37 "(a) The Department shall establish a temporary management contingency fund  
38 from the proceeds of penalties collected by the Department under the provisions of G.S.  
39 131E-109 and G.S. 131E-129 for nursing facilities, and G.S. 131D-2 and G.S. 131D-34  
40 for ~~domiciliary homes~~-adult care homes."

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

42 "d. Hospitalization for custodial, ~~domiciliary~~-adult care or sanitarium  
43 care, or rest cures, is not covered."

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

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

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

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

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

9           "**§ 143B-139.5. Department of Human Resources; ~~domiciliary~~ adult care**  
10           **State/county share of costs.**

11           State funds available to the Department of Human Resources shall pay fifty percent  
12           (50%), and the counties shall pay fifty percent (50%) of the authorized rates for  
13           ~~domiciliary care in homes for the aged and for family care homes~~ adult care homes including  
14           area mental health agency-operated or contracted-group homes."

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

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

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

20           b. For the inspection and licensing of ~~domiciliary homes~~ adult care  
21           homes for aged or disabled persons as provided by G.S. 131D-  
22           2(b) and for personnel requirements of staff employed in  
23           ~~domiciliary homes~~ adult care homes. Any proposed personnel  
24           requirements that would impose additional costs on owners of  
25           ~~domiciliary homes~~ adult care homes shall be reviewed by the Joint  
26           Legislative Commission on Governmental Operations before  
27           they are adopted;"

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

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

31           a. Alternative community living arrangement services, employment  
32           related activities, child development services, and case  
33           management services; and

34           b. Any other specialized services or special adaptations of generic  
35           services including diagnosis, evaluation, treatment, personal care,  
36           day care, ~~domiciliary care, adult care,~~ special living arrangements,  
37           training, education, sheltered employment, recreation and  
38           socialization, counseling of the individual with such a disability  
39           and of his family, protective and other social and sociolegal  
40           services, information and referral services, follow-along services,  
41           nonvocational social-developmental services, and transportation  
42           services necessary to assure delivery of services to persons with



1 developmental disabilities, and services to promote and  
2 coordinate activities to prevent developmental disabilities."

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

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

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

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

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

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

27 Sec. 36. G.S. 168-21(1) reads as rewritten:

28 "(1) 'Family care home' means ~~a home~~ an adult care home with support and  
29 supervisory personnel that provides room and board, personal care and  
30 habilitation services in a family environment for not more than six  
31 resident handicapped persons."

32 Sec. 37. Rules adopted by the Department of Human Resources, the Medical  
33 Care Commission, and the Social Services Commission regulating domiciliary care  
34 homes prior to the effective date of this act remain in effect for adult care homes until  
35 amended or repealed.

36 Sec. 38. Unless otherwise specified, this act becomes effective July 1, 1995.