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Short Title: Asst. Living Req./AB.

(Public)

Sponsors:

Referred to:

March 28, 1995

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LICENSING AND REGISTRATION OF ASSISTED
LIVING FACILITIES AND TO REPLACE THE ARCHAIC TERM
"DOMICILIARY" CARE WITH THE TERM "ADULT" CARE.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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- 6 (2) Repealed by Session Laws 1981, c. 383, s. 3.
- 7 (3) Repealed by Session Laws 1981, c. 383, s. 3.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

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

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

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

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

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

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

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

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

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

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

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

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

32 "**§ 108A-47. Limitations on payments.**

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

- 36 (1) A member of the Social Services Commission, of any county board of
37 social services, or of any board of county commissioners;
- 38 (2) An official or employee of the Department, unless the official or
39 employee has been appointed temporary manager of the facility
40 pursuant to G.S. 131E-237, or of any county department of social
41 services;
- 42 (3) A spouse of a person designated in subdivisions (1) and (2)."

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

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

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

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

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

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

27 "**§ 131D-2. Licensing of ~~domiciliary homes~~adult care homes for the aged and
28 disabled.**

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

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

35 (1a) 'Adult care home' is an assisted living residence in which the housing
36 management provides 24-hour scheduled and unscheduled personal care
37 services to two or more residents, either directly or, for scheduled needs,
38 through formal written agreement with licensed home care or hospice
39 agencies. Some licensed adult care homes provide supervision to
40 persons with cognitive impairments whose decisions, if made
41 independently, may jeopardize the safety or well-being of themselves or
42 others and therefore require supervision. Medication in an adult care
43 home may be administered by designated, trained staff. Adult care

1 homes that provide care to two to six unrelated residents are commonly
2 called family care homes. Adult care homes and family care homes are
3 subject to licensure by the Division of Facility Services.

4 (1b) 'Amenities' means services such as meals, housekeeping, transportation,
5 and grocery shopping that do not involve hands-on personal care.

6 (1c) 'Assisted living residence' means any group housing and services
7 program for two or more unrelated adults, by whatever name it is called,
8 that makes available, at a minimum, one meal a day and housekeeping
9 services and provides personal care services directly or through a formal
10 written agreement with one or more licensed home care or hospice
11 agencies. The Department may allow nursing service exceptions on a
12 case-by-case basis. Settings in which services are delivered may include
13 self-contained apartment units or single or shared room units with
14 private or area baths. Assisted living residences are to be distinguished
15 from nursing homes subject to provisions of G.S. 131E-102. Effective
16 July 1, 1995, there are two types of assisted living residences: adult care
17 homes and group homes for developmentally disabled adults. Effective
18 July 1, 1996, there is a third type, multiunit independent housing with
19 services.

20 (1d) 'Compensatory agent' means a spouse, relative, or other caretaker who
21 lives with a resident and provides care to a resident.

22 (2) 'Developmentally disabled adult' means a person who has attained the
23 age of 18 years and who has a developmental disability defined as a
24 severe, chronic disability of a person which:

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

38 (3) ~~'Domiciliary home' means any facility, by whatever name it is called,~~
39 ~~which provides residential care for aged or disabled persons whose~~
40 ~~principal need is a home which provides the supervision and personal~~
41 ~~care appropriate to their age or disability. Medical care at a domiciliary~~
42 ~~home is only occasional or incidental, such as may be given in the home~~
43 ~~of any individual or family, but medication is administered by~~

1 designated staff of the home. Personal care given in a domiciliary home
2 includes direct assistance, by designated staff, to residents in personal
3 grooming, bathing, dressing, feeding, shopping, laundering clothes,
4 handling personal finances, arranging transportation, scheduling
5 medical or business appointments, as well as attending to any personal
6 needs residents may be incapable of or unable to attend for themselves.
7 Domiciliary homes are to be distinguished from nursing homes subject
8 to licensure under G.S. 131E-102. The three types of domiciliary
9 homes are homes for the aged and disabled, family care homes and
10 group homes for developmentally disabled adults.

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

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

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

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

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

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

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

- (8) 'Neglect' means the failure to provide the services necessary to maintain a resident's physical or mental health.
- (9) 'Personal care services' means any hands-on services allowed to be performed by In-Home Aides II or III as outlined in Department rules.
- (10) 'Registration' means the submission by a multiunit independent housing with services provider of a disclosure statement containing all the information as outlined in subdivision (7a) of this subsection.
- (11) 'Resident' means a person living in an assisted living residence for the purpose of obtaining access to housing and services provided or made available by housing management.

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

- (1) Ventilator dependency;
- (2) Individuals requiring continuous licensed nursing care;
- (3) Individuals whose physician certifies that placement is no longer appropriate;
- (4) Individuals whose health needs cannot be met in the specific adult care home as determined by the residence, and
- (5) Such other medical and functional care needs as the Social Services Commission determines cannot be properly met in an adult care home.

(a2) Persons not to be cared for in multiunit independent housing with services. Except when a physician certifies that appropriate care can be provided on a temporary basis to meet the resident's needs and prevent unnecessary relocation, multiunit independent housing with services shall not care for individuals with any of the following conditions or care needs:

- 1 (1) Ventilator dependency;
2 (2) Dermal ulcers III and IV, except those stage III ulcers which are
3 determined by an independent physician to be healing;
4 (3) Intravenous therapy or injections directly into the vein, except for
5 intermittent intravenous therapy managed by a home care or hospice
6 agency licensed in this State;
7 (4) Airborne infectious disease in a communicable state that requires
8 isolation of the individual or requires special precautions by the
9 caretaker to prevent transmission of the disease, including diseases such
10 as tuberculosis and excluding infections such as the common cold;
11 (5) Psychotropic medications without appropriate diagnosis and treatment
12 plans;
13 (6) Nasogastric tubes;
14 (7) Gastric tubes except when the individual is capable of independently
15 feeding himself and caring for the tube, or as managed by a home care
16 or hospice agency licensed in this State;
17 (8) Individuals requiring continuous licensed nursing care;
18 (9) Individuals whose physician certifies that placement is no longer
19 appropriate;
20 (10) Unless the individual's independent physician determines otherwise,
21 individuals who require maximum physical assistance as documented
22 by a uniform assessment instrument and who meet Medicaid nursing
23 facility level-of-care criteria as defined in the State Plan for Medical
24 Assistance. Maximum physical assistance means that an individual has
25 a rating of total dependence in four or more of the seven activities of
26 daily living as documented on a uniform assessment instrument;
27 (11) Individuals whose health needs cannot be met in the specific multiunit
28 independent housing with services as determined by the residence; and
29 (12) Such other medical and functional care needs as the Social Services
30 Commission determines cannot be properly met in multiunit
31 independent housing with services.
32 (a3) Hospice care. At the request of the resident, hospice care may be provided in
33 an assisted living residence under the same requirements for hospice programs as
34 described in Article 10 of Chapter 131E of the General Statutes.

35 (b) Licensure; inspections. –

- 36 (1) The Department of Human Resources shall inspect and license, under
37 rules adopted by the Social Services Commission, all ~~domiciliary homes~~
38 adult care homes for persons who are aged or mentally or physically
39 disabled except those exempt in subsection ~~(d)~~–(c) of this section.
40 Licenses issued under the authority of this section shall be valid for one
41 year from the date of issuance unless revoked earlier by the Secretary of
42 Human Resources for failure to comply with any part of this section or
43 any rules adopted hereunder. Licenses shall be renewed annually upon

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

- 16 (1a) In addition to the licensing and inspection requirements mandated by
17 subdivision (1) of this subsection, the Department shall ensure that
18 ~~domiciliary care facilities~~ adult care homes required to be licensed by this
19 Article are monitored for licensure compliance on a regular basis. In
20 carrying out this requirement, the Department shall work with county
21 departments of social services to do the routine monitoring and to have
22 the Division of Facility Services oversee this monitoring and perform
23 any follow-up inspection called for.
- 24 (2) Any individual or corporation that establishes, conducts, manages, or
25 operates a facility subject to licensure under this section without a
26 license is guilty of a Class 3 misdemeanor, and upon conviction shall be
27 punishable only by a fine of not more than fifty dollars (\$50.00) for the
28 first offense and not more than five hundred dollars (\$500.00) for each
29 subsequent offense. Each day of a continuing violation after conviction
30 shall be considered a separate offense.
- 31 (3) In addition, the Department may summarily suspend a license pursuant
32 to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,
33 neglect, exploitation or any condition which presents an imminent
34 danger to the health and safety of any resident of the home. Any facility
35 wishing to contest summary suspension of a license shall be entitled to
36 an administrative hearing as provided in the Administrative Procedure
37 Act, Chapter 150B of the General Statutes. A petition for a contested
38 case shall be filed within 20 days after the Department mails a notice of
39 summary suspension to the licensee.
- 40 (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of
41 communications between physician and patient, in the course of an
42 inspection conducted under subsection (b):

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

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

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

12 The Department shall not disclose:

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

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

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

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

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

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

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

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

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

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

36 (2) Persons subject to rules of the Division of Vocational Rehabilitation
37 Services;

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

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

42 (c1) Although the contract obligation still remains to pay the housing management
43 for any services covered by the contract between the resident and housing management,

1 the resident of an assisted living facility has the right to obtain services not at the expense
2 of the housing management, from providers other than the housing management.

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

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

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

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

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

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

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

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

- 39 (1) In addition to the administrative penalties described in subsection (b),
40 the Secretary may suspend the admission of any new residents to a
41 ~~domiciliary home~~ an adult care home, where the conditions of the
42 ~~domiciliary home~~ adult care home are detrimental to the health or safety
43 of the residents. This suspension shall be for the period determined by

1 the Secretary and shall remain in effect until the Secretary is satisfied
2 that conditions or circumstances merit removing the suspension.

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

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

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

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

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

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

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

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

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

29 **"§ 131D-3. ~~Domiciliary care facilities;~~ Adult care homes; reporting requirements.**

30 (a) The Department of Human Resources, Division of Social Services, by January
31 1, 1982, shall develop a cost and revenue reporting form for use by all ~~domiciliary care~~
32 ~~facilities~~ adult care homes. This form shall be based on the uniform chart of accounts
33 required in G.S. 131D-4. All facilities that receive funds under the State-County Special
34 Assistance for Adults Program shall report total costs and revenues to the Department of
35 Human Resources by March 1 of each year. Facilities licensed under the provisions of
36 G.S. 131D-2(a)(5) shall report total costs and revenues beginning with a report that
37 covers the twelve-month period beginning January 1, 1993. Facilities operated by or
38 under contract with Area Mental Health, Developmental Disabilities, and Substance
39 Abuse Authorities shall report total costs and revenues beginning with a report that
40 covers the twelve-month period beginning July 1, 1992. Combination facilities providing
41 either intermediate or skilled care in addition to ~~domiciliary care~~ adult care shall report
42 total costs and revenues beginning with a report that covers the twelve-month period
43 beginning October 1, 1992. All facilities shall be required to permit access to any

1 requested financial records by representatives of the Department of Human Resources for
2 audit purposes effective July 1, 1981.

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

6 (1) The verification that the amounts reported in the cost report relate to the
7 proper calendar year, and reconcile to the general ledger, tax return, and
8 appropriate financial statements;

9 (2) The validation of payroll costs reported for federal form 941 returns;

10 (3) The verification that depreciation expense is supported by appropriate
11 backup schedules;

12 (4) The verification that interest expense reported agrees with bank
13 statements and other support documentation;

14 (5) The verification that food, utilities, and other vendor payments are
15 adequately supported by source documents;

16 (6) The certification that rent and lease expenses are supported by rental or
17 lease agreements; and

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

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

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

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

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

26 **"§ 131D-4. ~~Domiciliary care facilities;~~ Adult care homes; uniform chart of accounts.**

27 The Department of Human Resources, Division of Social Services, by January 1,
28 1982, shall develop a uniform chart of accounts for use by all ~~domiciliary care facilities~~
29 adult care homes funded totally or in part through the State-County Special Assistance
30 for Adults Program. The Division shall consult with representatives from the ~~domiciliary~~
31 care-adult care industry in developing the new accounting system. The Division shall
32 require ~~domiciliary care facilities~~ adult care homes covered by this section to implement
33 this chart of accounts by January 1, 1983, unless otherwise provided by this section.
34 Facilities licensed under the provisions of G.S. 131D-2(a)(5) shall implement this chart of
35 accounts beginning with the twelve-month period beginning January 1, 1993. Facilities
36 operated by or under contract with Area Mental Health, Developmental Disabilities, and
37 Substance Abuse Authorities shall implement this chart of accounts beginning with the
38 twelve-month period beginning July 1, 1992. Combination facilities providing either
39 intermediate or skilled care in addition to ~~domiciliary care~~ adult care shall implement this
40 chart of accounts beginning with the twelve-month period beginning October 1, 1992.

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

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

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

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

"ARTICLE 3.

"~~DOMICILIARY HOME~~ ADULT CARE HOME RESIDENTS' BILL OF RIGHTS."

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

"§ 131D-19. Legislative intent.

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

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

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

"§ 131D-20. Definitions.

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

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

- 1 (2) ~~'Domiciliary home' means any facility, by whatever name it is called,~~
2 ~~which provides residential care for aged or disabled persons whose~~
3 ~~principal need is a home which provides the supervision and personal~~
4 ~~care appropriate to their age or disability. Medical care at a domiciliary~~
5 ~~home is only occasional or incidental, such as may be given in the home~~
6 ~~of any individual or family, but medication is administered by~~
7 ~~designated staff of the home. Personal care given in a domiciliary home~~
8 ~~includes direct assistance, by designated staff, to residents in personal~~
9 ~~grooming, bathing, dressing, feeding, shopping, laundering clothes,~~
10 ~~handling personal finances, arranging transportation, scheduling~~
11 ~~medical or business appointments, as well as attending to any personal~~
12 ~~needs residents may be incapable of or unable to attend for themselves.~~
13 ~~Domiciliary homes are to be distinguished from nursing homes subject~~
14 ~~to licensure under G.S. 131E-102. The three types of domiciliary homes~~
15 ~~are homes for the aged and disabled, family care homes and group~~
16 ~~homes for developmentally disabled adults.~~
- 17 (2a) 'Adult care home' is an assisted living residence in which the housing
18 management provides 24-hour scheduled and unscheduled personal care
19 services to two or more residents, either directly or, for scheduled needs,
20 through formal written agreement with licensed home care or hospice
21 agencies. Some licensed adult care homes provide supervision to
22 persons with cognitive impairments whose decisions, if made
23 independently, may jeopardize the safety or well-being of themselves or
24 others and therefore require supervision. Medication in an adult care
25 home may be administered by designated, trained staff. Adult care
26 homes that provide care to two to six unrelated residents are commonly
27 called family care homes. Adult care homes and family care homes are
28 subject to licensure by the Division of Facility Services.
- 29 (2b) 'Assisted living residence' means any group housing and services
30 program for two or more unrelated adults, by whatever name it is called,
31 that makes available, at a minimum, one meal a day and housekeeping
32 services and provides personal care services directly or through a formal
33 written agreement with one or more licensed home care or hospice
34 agencies. The Department may allow nursing service exceptions on a
35 case-by-case basis. Settings in which services are delivered may include
36 self-contained apartment units or single or shared room units with
37 private or area baths. Assisted living residences are to be distinguished
38 from nursing homes subject to provisions of G.S. 131E-102.
- 39 (3) 'Exploitation' means the illegal or improper use of an aged or
40 disabled resident or his resources for another's profit or advantage.
- 41 (4) 'Facility' means ~~a domiciliary home~~ an adult care home licensed pursuant
42 to G.S. 131D-2.

- 1 (5) 'Family care home' means a ~~domiciliary home~~ an adult care home having
2 two to six residents. The structure of a family care home may be no
3 more than two stories high and none of the aged or physically disabled
4 persons being served there may be housed in the upper story without
5 provision for two direct exterior ground-level accesses to the upper
6 story.
- 7 (6) 'Group home for developmentally disabled adults' means a ~~domiciliary~~
8 ~~home~~ and adult care home which has two to nine developmentally
9 disabled adult residents.
- 10 ~~(7) 'Home for the aged and disabled' means a domiciliary home which has~~
11 ~~seven or more residents.~~
- 12 (8) 'Neglect' means the failure to provide the services necessary to maintain
13 the physical or mental health of a resident.
- 14 (9) 'Resident' means an aged or disabled person who has been admitted to a
15 facility."

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

17 "**§ 131D-31. ~~Domiciliary home~~ Adult care home community advisory committees.**

- 18 (a) Statement of Purpose. – It is the intention of the General Assembly that
19 community advisory committees work to maintain the intent of the ~~Domiciliary Home~~
20 Adult Care Home Residents' Bill of Rights within the licensed ~~domiciliary homes~~ adult
21 care homes in this State. It is the further intent of the General Assembly that the
22 committees promote community involvement and cooperation with ~~domiciliary homes~~
23 adult care homes to ensure quality care for the elderly and disabled adults.
- 24 (b) Establishment and Appointment of Committees. –
- 25 (1) A community advisory committee shall be established in each county
26 ~~which that~~ has at least one licensed ~~domiciliary home~~, adult care home
27 shall serve all the homes in the county, and shall work with each of
28 these homes for the best interests of the residents. In a county ~~which that~~
29 has one, two, or three ~~homes for the aged and disabled~~, adult care homes
30 with 10 or more beds, the committee shall have five members.
- 31 (2) In a county with four or more ~~homes for the aged and disabled~~, adult care
32 homes with 10 or more beds, the committee shall have one additional
33 member for each ~~home for the aged and disabled~~ adult care home with 10
34 or more beds in excess of three, up to a maximum of 20 members. In
35 each county with four or more ~~homes for the aged and disabled~~, adult care
36 homes with 10 or more beds, the committee shall establish a
37 subcommittee of no more than five members and no fewer than three
38 members from the committee for each ~~domiciliary home~~ adult care home
39 in the county. Each member must serve on at least one subcommittee.
- 40 (3) In counties with no ~~homes for the aged and disabled~~, adult care homes
41 with 10 or more beds, the committee shall have five members.
42 Regardless of how many members a particular community advisory

1 committee ~~must~~ is required to have, at least one member of each
2 committee shall be a person involved in the area of mental retardation.

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

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

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

41 (e) Vacancies. – Any vacancy shall be filled by appointment of a person for a one-
42 year term. If this vacancy is in a position filled by an appointee nominated by the chief
43 administrators of ~~domiciliary homes~~ adult care homes within the county, then the county

1 commissioners shall fill the vacancy from persons nominated by a majority of the chief
2 administrators. If the ~~domiciliary home~~ adult care home administrators fail to make a
3 nomination by registered mail within 45 days after written notification has been sent to
4 them requesting a nomination, ~~such~~ this appointment may be made without nominations.
5 If the county commissioners fail to fill a vacancy, the vacancy may be filled by the
6 Assistant Secretary ~~on~~ for Aging, Department of Human Resources no sooner than 45
7 days after the commissioners have been notified of the appointment or vacancy.

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

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

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

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

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

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

38 "**§ 131D-32. Functions of ~~domiciliary home~~ adult care home community advisory**
39 **committees.**

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

42 (b) The committee shall promote community education and awareness of the needs
43 of aging and disabled persons who reside in ~~domiciliary homes,~~ adult care homes, and

1 shall work towards keeping the public informed about aspects of long-term care and the
2 operation of ~~domiciliary homes~~ adult care homes in North Carolina.

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

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

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

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

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

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

42 (i) The committee shall prepare reports as required by the Department of Human
43 Resources containing an appraisal of the problems of ~~domiciliary care~~ adult care homes

1 facilities as well as issues affecting long-term care in general. Copies of the report shall
2 be sent to the board of county commissioners, county department of social services and
3 the Division of Aging.

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

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

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

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

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

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

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

35 **"ARTICLE 4.**

36 **"TEMPORARY MANAGEMENT OF ~~DOMICILIARY HOMES~~; ADULT CARE**
37 **HOMES."**

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

39 **"§ 131D-35. Temporary management of ~~domiciliary homes~~; adult care homes.**

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

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

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

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

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

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

39 "**§ 131E-101. Definitions.**

40 As used in this Part, unless otherwise specified:

41 (1) 'Combination home' means a nursing home offering one or more levels
42 of care, including any combination of skilled nursing, intermediate care,
43 and ~~domiciliary home~~ adult care home.

- 1 (2) 'Commission' means the North Carolina Medical Care Commission.
- 2 (3) 'Community advisory committee' means a nursing home advisory
3 committee established for the statutory purpose of working to carry out
4 the intent of the Nursing Home Patients' Bill of Rights (Chapter 131E,
5 Article 6, Part B) in accordance with G.S. 143B-181.1.
- 6 (4) ~~'Domiciliary home,'~~ 'Adult care home', as distinguished from a nursing
7 home, means a facility operated as a part of a nursing home and which
8 provides residential care for aged or disabled persons whose principal
9 need is a home with the ~~sheltered-shelter~~ or personal care their age or
10 disability requires. Medical care in ~~a domiciliary home~~ an adult care
11 home is usually occasional or incidental, such as may be required in the
12 home of any individual or family, but the administration of medication
13 is supervised. Continuing planned medical and nursing care to meet the
14 resident's needs may be provided under the direct supervision of a
15 physician, nurse, or home health agency. ~~Domiciliary homes~~ Adult care
16 homes are to be distinguished from nursing homes subject to licensure
17 under this Part. ~~The three types of domiciliary homes are homes for the aged~~
18 ~~and disabled, family care homes and group homes for developmentally~~
19 ~~disabled adults.~~
- 20 (5) 'Medical review committee' means a committee of a State or local
21 professional society, of a medical staff of a licensed hospital, of
22 physicians having privileges within the nursing home or of a peer
23 review corporation or organization which is formed for the purpose of
24 evaluating the quality, cost of or necessity for health care services under
25 applicable federal statutes.
- 26 (6) 'Nursing home' means a facility, however named, which is advertised,
27 announced, or maintained for the express or implied purpose of
28 providing nursing or convalescent care for three or more persons
29 unrelated to the licensee. A 'nursing home' is a home for chronic or
30 convalescent patients, who, on admission, are not as a rule, acutely ill
31 and who do not usually require special facilities such as an operating
32 room, X-ray facilities, laboratory facilities, and obstetrical facilities. A
33 'nursing home' provides care for persons who have remedial ailments or
34 other ailments, for which medical and nursing care are indicated; who,
35 however, are not sick enough to require general hospital care. Nursing
36 care is their primary need, but they will require continuing medical
37 supervision.
- 38 (7) 'Peer review committee' means any committee appointed in accordance
39 with G.S. 131E-108, 'Peer review.'

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

- 41 "(b) The Commission shall adopt rules for the operation of the ~~domiciliary-adult care~~
42 portion of a combination home that are equal to the rules adopted by the Social Services
43 Commission for the operation of freestanding ~~domiciliary homes~~ adult care homes. The

1 ~~domiciliary~~ adult care portion of a combination home in existence on January 1, 1982,
2 shall be exempt from physical plant minimum standards, unless the Department
3 determines the exemption to be an imminent hazard to health, safety and welfare of the
4 residents."

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

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

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

10 "**§ 131E-106. Evaluation of residents in ~~domiciliary homes~~ adult care homes.**

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

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

16 "**§ 131E-115. Legislative intent.**

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

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

26 "(1) 'Long-term care facility' means a nursing home as defined in G.S. 131E-
27 101(6), a ~~domiciliary home as defined in G.S. 131D-2(a)(3), and a domiciliary~~
28 ~~home as defined in G.S. 131E-101(4).~~ G.S. 131E-101(6) and an adult care
29 home as defined in G.S. 131D-2(a)(3) or G.S. 131E-101(4)."

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

31 "(a) The Department shall establish a temporary management contingency fund
32 from the proceeds of penalties collected by the Department under the provisions of G.S.
33 131E-109 and G.S. 131E-129 for nursing facilities, and G.S. 131D-2 and G.S. 131D-34
34 for ~~domiciliary homes~~ adult care homes."

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

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

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

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

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

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

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

4 "**§ 143B-139.5. Department of Human Resources; ~~domiciliary~~ adult care**
5 **State/county share of costs.**

6 State funds available to the Department of Human Resources shall pay fifty percent
7 (50%), and the counties shall pay fifty percent (50%) of the authorized rates for
8 ~~domiciliary care in homes for the aged and for family care homes~~ adult care homes including
9 area mental health agency-operated or contracted-group homes."

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

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

- 13 a. For the inspection and licensing of maternity homes as provided
14 by G.S. 131D-1;
- 15 b. For the inspection and licensing of ~~domiciliary homes~~ adult care
16 homes for aged or disabled persons as provided by G.S. 131D-
17 2(b) and for personnel requirements of staff employed in
18 ~~domiciliary homes~~ adult care homes. Any proposed personnel
19 requirements that would impose additional costs on owners of
20 ~~domiciliary homes~~ adult care homes shall be reviewed by the Joint
21 Legislative Commission on Governmental Operations before
22 they are adopted;"

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

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

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

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

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

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

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

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

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

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

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

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

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