

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 198*

Short Title: Adult Care Home Licensure.

(Public)

Sponsors: Representatives Nesbitt, Alexander; Insko, Wainwright, and Luebke.

Referred to: Judiciary I.

March 1, 1999

A BILL TO BE ENTITLED

1 AN ACT PERTAINING TO THE ISSUANCE OF A NEW ADULT CARE HOME
2 LICENSE TO AN APPLICANT WHO WAS THE LICENSEE OR
3 ADMINISTRATOR OF AN ADULT CARE HOME THE LICENSE OF WHICH
4 HAD BEEN REVOKED OR DOWNGRADED TO PROVISIONAL STATUS OR
5 AGAINST WHICH A TYPE A PENALTY HAD BEEN ASSESSED.
6

7 The General Assembly of North Carolina enacts:

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

9 "(b) Licensure; inspections. –

10 (1) The Department of Health and Human Services shall inspect and
11 license, under rules adopted by the Social Services Commission, all
12 adult care homes for persons who are aged or mentally or physically
13 disabled except those exempt in subsection (c) of this section. Licenses
14 issued under the authority of this section shall be valid for one year from
15 the date of issuance unless revoked earlier by the Secretary of Health
16 and Human Services for failure to comply with any part of this section
17 or any rules adopted hereunder. ~~No new license shall be issued for any~~
18 ~~domiciliary home whose administrator was the administrator for any~~
19 ~~domiciliary home [adult care home] that had its license revoked until one full~~
20 ~~year after the date of revocation.~~ 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 amend a license by reducing it from a full license to a provisional
8 license whenever the Department finds that:

- 9 a. The licensee has substantially failed to comply with the
10 provisions of Articles 1 and 3 of Chapter 131D of the General
11 Statutes and the rules adopted pursuant to these Articles;
12 b. There is a reasonable probability that the licensee can remedy the
13 licensure deficiencies within a reasonable length of time; and
14 c. There is a reasonable probability that the licensee will be able
15 thereafter to remain in compliance with the licensure rules for the
16 foreseeable future.

17 The Department may revoke a license whenever:

- 18 a. The Department finds that:
19 1. The licensee has substantially failed to comply with the
20 provisions of Articles 1 and 3 of Chapter 131D of the
21 General Statutes and the rules adopted pursuant to these
22 Articles; and
23 2. It is not reasonably probable that the licensee can remedy
24 the licensure deficiencies within a reasonable length of
25 time; or
26 b. The Department finds that:
27 1. The licensee has substantially failed to comply with the
28 provisions of Articles 1 and 3 of Chapter 131D of the
29 General Statutes and the rules adopted pursuant to these
30 Articles; and
31 2. Although the licensee may be able to remedy the
32 deficiencies within a reasonable time, it is not reasonably
33 probable that the licensee will be able to remain in
34 compliance with licensure rules for the foreseeable future;
35 or
36 c. The Department finds that the licensee has failed to comply with
37 the provisions of Articles 1 and 3 of Chapter 131D of the General
38 Statutes and the rules adopted pursuant to these Articles, and the
39 failure to comply endangered the health, safety, or welfare of the
40 patients in the facility.

41 The Department may also issue a provisional license to a facility,
42 pursuant to rules adopted by the Social Services Commission, for
43 substantial failure to comply with the provisions of this section or rules

1 promulgated pursuant to this section. Any facility wishing to contest the
2 issuance of a provisional license shall be entitled to an administrative
3 hearing as provided in the Administrative Procedure Act, Chapter 150B
4 of the General Statutes. A petition for a contested case shall be filed
5 within 30 days after the Department mails written notice of the issuance
6 of the provisional license."

7 Section 2. G.S. 131D-2(b) is amended by adding the following subdivision to
8 read:

9 "(1b) No new license shall be issued for any adult care home to an applicant
10 for licensure who:

11 a. Was the administrator, licensee, or owner of an adult care home
12 that had its license revoked until one full year after the date of
13 revocation;

14 b. Is the administrator, licensee, or owner of an adult care home that
15 was assessed a penalty for a Type A or Type B violation until the
16 earlier of one year from the date the penalty was assessed or until
17 the home has substantially complied with the correction plan
18 established pursuant to G.S. 131D-34 and substantial compliance
19 has been certified by the Department; or

20 c. Is the administrator, licensee, or owner of an adult care home that
21 had its license summarily suspended or downgraded to
22 provisional status until six months from the date of reinstatement
23 of the license, restoration from provisional to full licensure, or
24 termination of the provisional license, as applicable.

25 An applicant for new licensure may appeal a denial of certification of
26 substantial compliance under subparagraph b. of this subdivision by filing
27 with the Department a request for review by the Secretary within 10 days of
28 the date of denial of the certification. Within 10 days of receipt of the
29 request for review the Secretary shall issue to the applicant a written
30 determination that either denies certification of substantial compliance or
31 certifies substantial compliance. The decision of the Secretary is final."

32 t Section 3. This act is effective when it becomes law and applies to license
33 applications filed on or after that date. The Social Services Commission and the
34 Secretary of Health and Human Services may adopt temporary rules to implement this
35 act.