

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 544
HOUSE BILL 814

AN ACT TO CLARIFY THE LICENSING OF HOMES FOR THE AGED, DISABLED AND INFIRM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-77 is rewritten to read:

"§ 108-77. Licensing of domiciliary homes for the aged, disabled and infirm. — (a) The following definitions will apply in the interpretation of this section:

- (1) 'Abuse' means abuse as defined in G.S. 108A-152(a).
- (2) 'Developmentally Disabled Adult' means a person who has attained the age of 18 years and who has a developmental disability as defined in G.S. 143B-178(1).
- (3) 'Domiciliary Home' means any facility, by whatever name it is called, which provides residential care for aged or disabled persons whose principal need is a home with the sheltered or personal care their age or disability requires. Medical care at a domiciliary home is only occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Domiciliary homes are to be distinguished from nursing homes subject to licensure under G.S. 130-9(e). The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults.
- (4) 'Exploitation' means exploitation as defined in G.S. 108A-152(j).
- (5) 'Family Care Home' means a domiciliary home having two to five residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct, exterior ground-level accesses to the upper story.
- (6) 'Group Home for Developmentally Disabled Adults' means a domiciliary home which has two to nine developmentally disabled adult residents.
- (7) 'Home for the Aged and Disabled' means a domiciliary home which has six or more residents.
- (8) 'Neglect' means the failure to provide the services necessary to maintain a resident's physical or mental health.

(b) The Department of Human Resources shall inspect and license, under the rules and regulations adopted by the Social Services Commission all domiciliary homes for persons who are aged or mentally or physically disabled except those exempted in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this Article or with the regulations promulgated in accordance with the provisions of this Article. Any individual or corporation that operates a facility subject to license under this section without a license is guilty of a misdemeanor. In addition, the Department may utilize the provision for summary suspension of license found in G.S. 150A-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any

other condition which presents an immediate danger to the health and safety of any resident of the home. Notwithstanding the provisions of G.S. 8-53 or any other provisions of law relating to the confidentiality of communications between physician and patient, the representatives of the Department of Human Resources who make these inspections may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, care, medical condition, or history of persons who are or have been residents, clients, or employees of the facility being inspected unless that resident or client objects in writing to such review. The representatives of the department may also interview physicians, psychologists, psychiatrists, nurses, and anyone else involved in giving care or treatment at or through the facility, to elicit confidential or privileged information, and the physician-patient privilege found in G.S. 8-53 or any other provision of law shall not be a bar to this questioning; provided the resident or client has not made written objection to such disclosure. The facility, its employees, and any person interviewed during these inspections shall be immune from liability for damages resulting from the disclosure of any information to the department. Any confidential or privileged information received from review of records or interviews shall be kept confidential by the department and not disclosed without written authorization of the resident, client, employee or legal representative or unless disclosure is ordered by a court of competent jurisdiction. The department shall institute appropriate policies and procedures to ensure that this information shall not be disclosed without authorization or court order. The department shall not disclose the name of anyone who has furnished information concerning a facility without the consent of that person. Neither the names of persons furnishing information nor any confidential or privileged information obtained from records or interviews shall be considered 'public records' within the meaning of G.S. 132-1.

(c) Facilities which are exempt from the provisions of this section are as follows:

- (1) those which care for one person only;
- (2) those which care for two or more persons, all of whom are related or connected by blood or by marriage to the operator of the facility;
- (3) those which make no charges for care, either directly or indirectly;
- (4) those which care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration.

(d) This section does not apply to any institution which is established, maintained or operated by any unit of government, by any commercial inn or hotel, or to any facility licensed by the Medical Care Commission under the provisions of G.S. 130-9(e), entitled 'Nursing Homes'. If any nursing home licensed under G.S. 130-9(e) also functions as a domiciliary home, the the domiciliary home component must comply with regulations adopted by the Medical Care Commission.

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

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

Sec. 2. The amendments to G.S. 108-77 shall be incorporated in G.S. Chapter 131C as recodified by Section 2 of Chapter 275 of the 1981 Session Laws.

Sec. 3. This act shall become effective January 1, 1982.

In the General Assembly read three times and ratified, this the 11th day of June, 1981.