

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 1022
HOUSE BILL 370

AN ACT TO PROVIDE A LICENSING PROGRAM FOR HOSPICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 131E of the General Statutes is amended by adding a new Article 10, to read:

"ARTICLE 10.

"Hospice Licensure Act.

"§ 131E-200. Title; purpose.—This act shall be known as the 'Hospice Licensure Act'. The purpose of this act is to establish licensing requirements for hospices.

"§ 131E-201. Definitions.—As used in this Article, unless a different meaning or construction is clearly required by the context:

- (1) 'Commission' means the North Carolina Medical Care Commission.
- (2) 'Department' means the Department of Human Resources.
- (3) 'Hospice' means any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement.
- (4) 'Hospice patient' means a patient diagnosed as terminally ill by a physician licensed to practice medicine in North Carolina, who the physician anticipates to have a life expectancy of weeks or months, generally not to exceed six months, and who alone, or in conjunction with designated family members, has voluntarily requested and been accepted into a licensed hospice program.
- (5) 'Hospice patient's family' means the hospice patient's immediate kin, including a spouse, brother, sister, child, or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the hospice patient's family by mutual agreement among the hospice patient, the relation or individual and the hospice team.
- (6) 'Identifiable hospice administration' means an administrative group, individual, or legal entity that has an identifiable organizational

structure, accountable to a governing board directly or through a chief executive officer. This administration shall be responsible for the management of all aspects of the program.

- (7) 'Hospice team' or 'Interdisciplinary team' means the following hospice personnel: physician licensed to practice medicine in North Carolina; nurse holding a valid, current license as required by North Carolina law; social worker; clergy member; and trained hospice volunteer. Other health care practitioners may be included on the team as the needs of the patient dictate or at the request of the physician. Other providers of special services may also be included as the needs of the patient dictate.
- (8) 'Palliative care' means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process, rather than the treatment aimed at investigation and intervention for the purpose of cure or prolongation of life.

"§ 131E-202. Licensing.—(a) The Commission shall adopt rules for the licensing and regulation of hospices pursuant to this Article for the purpose of providing care, treatment, health, safety, welfare, and comfort of hospice patients. These rules shall include, but not be limited to:

- (1) the qualifications and supervision of licensed and nonlicensed personnel;
- (2) the provision and coordination of home and inpatient care, including the development of a written care plan;
- (3) the management, operation, staffing, and equipping of the hospice program;
- (4) clinical and business records kept by the hospice;
- and
- (5) procedures for the review of utilization and quality of care.

(b) The Department shall provide applications for hospice licensure. Each application filed with the Department shall contain all information requested therein. A license shall be granted to the applicant upon determination by the Department that the applicant has complied with the provisions of this Article and with the rules adopted by the Commission thereunder. Each license shall be issued only for the premises and persons named therein, shall not be transferable or assignable except with the written approval of the Department, and shall be posted in a conspicuous place on the licensed premises.

(c) The Department shall renew the license in accordance with this Article and with rules adopted thereunder.

"§ 131E-203. Coverage.—(a) Except as provided in subsection (b), no person shall operate or represent himself to the public as operating a hospice without obtaining a license from the Department pursuant to this Article.

(b) Hospices administered by local health departments established under Article 2 of Chapter 130A of the General Statutes shall not be required to be licensed under this

Article. Additionally, health care facilities and agencies licensed under Article 5 or 6 of Chapter 131E of the General Statutes shall not be required to be separately licensed under this Article. However, any facility or agency exempted from licensure as a hospice under this subsection shall be subject to rules adopted pursuant to this Article.

(c) Hospice care shall be available 24 hours a day, seven days a week.

"§ 131E-204. Inspections.—The Department shall inspect all hospices that are subject to rules adopted pursuant to this Article in order to determine compliance with the provisions of this Article and with rules adopted thereunder. Inspections shall be conducted in accordance with rules adopted by the Commission.

"§ 131E-205. Adverse action on a license; appeal procedures.—(a) The Department may suspend, revoke, cancel, or amend a license when there has been a substantial failure to comply with this Article or with rules and regulations adopted thereunder.

(b) Chapter 150A of the General Statutes, the Administrative Procedure Act, shall govern all administrative action pursuant to subsection (a) and all judicial review arising therefrom.

"§ 131E-206. Injunction.—(a) Notwithstanding the existence or pursuit of any other remedy, the Department may maintain an action in the name of the State for injunctive relief or other process against any person to restrain or prevent the establishment, conduct, management, or operation of a hospice without a license.

(b) Notwithstanding the provisions of G.S. 131E-203(b) or the existence of any other remedy, the Department may maintain an action in the name of the State for injunctive relief or other process against any person to restrain or prevent substantial noncompliance with this Article or the rules adopted thereunder.

(c) If any person shall hinder the proper performance of duty of the Department in carrying out the provisions of this Article, the Department may institute an action in the superior court of the county in which the hindrance occurred for injunctive relief against the continued hindrance.

"§ 131E-207. Confidentiality.—(a) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under G.S. 131E-204:

(1) Department representatives may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or history of any person who is or has been a hospice patient; and

(2) Any person involved in treating a patient at or through a hospice may disclose information to a Department representative unless the patient objects in writing to review of his records or disclosure of the information. A hospice shall not release any information or allow any inspections under this section without first informing each affected patient in writing of his right to object to and thereby prohibit release of information or review of records pertaining to him.

A hospice, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

(b) The Department shall not disclose:

- (1) any confidential or privileged information obtained under this section unless the patient or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure; or
- (2) the name of anyone who has furnished information concerning a hospice without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. Any Department employee who willfully discloses this information without appropriate authorization or court order shall be guilty of a misdemeanor and upon conviction fined at the discretion of the court but not to exceed five hundred dollars (\$500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing this information shall be exempt from Chapter 132 of the General Statutes.

Sec. 2. G.S. 131E-176 is amended by adding a new subdivision to read:

"(13.1) 'Hospice' means any coordinated program of home care with provision for inpatient care for terminally ill patients and their families. This care is provided by a medically directed interdisciplinary team, directly or through an agreement under the direction of an identifiable hospice administration. A hospice program of care provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual and special needs of patients and their families, which are experienced during the final stages of terminal illness and during dying and bereavement."

Sec. 3. G.S. 131E-176(16) is amended by adding a new sub-subdivision to read:

"n. The construction, development, or other establishment of a hospice if the operating budget thereof is in excess of one hundred thousand dollars (\$100,000) or if there is the obligation of any capital expenditure by or on behalf of the hospice as provided in G.S. 131E-176(16)b."

Sec. 4. G.S. 131E-136(1) is rewritten to read:

"Commission" means the North Carolina Medical Care Commission."

Sec. 5. G.S. 143B-142(c)(1) is deleted and subsequent subdivisions renumbered accordingly.

Sec. 6. G.S. 143B-165 is amended by adding a new subdivision to read as follows:

"(11) The Commission is authorized to adopt such rules as may be necessary to carry out the provisions of Part C of Article 6, and Article 10, of Chapter 131E of the General Statutes of North Carolina."

Sec. 7. Notwithstanding the effective date of this act, the commission shall have the authority, as provided in G. S. 131E-202, to commence the rulemaking process as defined in G.S. 150A, the Administrative Procedure Act, upon ratification of this act.

Sec. 8. This act shall be effective from November 1, 1984, through June 30, 1987.

In the General Assembly read three times and ratified, this the 28th day of June, 1984.