

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 535
SENATE BILL 502

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:

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

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- (2) Repealed by Session Laws 1981, c. 383, s. 3.
- (3) Repealed by Session Laws 1981, c. 383, s. 3.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

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

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

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

- (1) 'Adult day care program' shall be defined in accordance with the provisions of G.S. 131D-6(b).
- (2) 'Chore' services include the performance of tasks incidental to activities of daily living that do not require the services of a trained homemaker or other specialist. Such services are provided to enable individuals to remain in their own homes and may include such services as: assistance in meeting basic care needs such as meal preparation; shopping for food and other necessities; running necessary errands; providing transportation to essential service facilities; care and cleaning of the house, grounds, clothing, and linens.
- (3) 'Combination home' shall be defined in accordance with the terms of G.S. 131E-101(1).
- (4) ~~'Domiciliary home'~~ 'Adult care home' shall be defined in accordance with the terms of G.S. 131D-2(a)(3).
- (5) 'Family care home' shall be defined in accordance with the terms of G.S. 131D-2(a)(5).
- (6) 'Group home for developmentally disabled adults' shall be defined in accordance with the terms of G.S. 131D-2(a)(6).
- (7) ~~'Home for the aged and disabled' shall be defined in accordance with the terms of G.S. 131D-2(a)(7).~~
- (8) 'Home health services' shall be defined in accordance with the terms of G.S. 131E-136(3).
- (9) 'Homemaker services' means supportive services provided by qualified para-professionals who are trained, equipped, assigned, and supervised by professionals within the agency to help maintain, strengthen, and safeguard the care of the elderly in their own homes. These standards must, at a minimum, meet standards established by the North Carolina Division of Social Services and may include: Providing assistance in management of household budgets; planning nutritious meals; purchasing and preparing foods; housekeeping duties; consumer education; and basic personal and health care.
- (10) 'Hospice' shall be defined in accordance with the terms of G.S. 131E-176(13a).
- (11) 'Intermediate care facility' shall be defined in accordance with the terms of G.S. 131E-176(14b).
- (12) 'Nursing home' shall be defined in accordance with the terms of G.S. 131E-101(6).
- (13) 'Respite care, institutional' means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period of time.

The insured receives care for the respite period in an institutional setting, such as a nursing home, family care home, rest home, or other appropriate setting.

- (14) 'Respite care, non-institutional' means provision of temporary support to the primary caregiver of the aged, disabled, or handicapped individual by taking over the tasks of that person for a limited period of time in the home of the insured or other appropriate community location.
- (15) 'Skilled Nursing Facility' shall be defined in accordance with the terms of G.S. 131E-176(23)."

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

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

- (1) To serve as executive officer of the board of social services and act as its secretary;
- (2) To appoint necessary personnel of the county department of social services in accordance with the merit system rules of the State Personnel Commission;
- (3) To administer the programs of public assistance and social services established by this Chapter under pertinent rules and regulations;
- (4) To administer funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county board of social services;
- (5) To act as agent of the Social Services Commission and Department of Human Resources in relation to work required by the Social Services Commission and Department of Human Resources in the county;
- (6) To investigate cases for adoption and to supervise adoptive placements;
- (7) To issue employment certificates to children under the regulations of the State Department of Labor;
- (8) To supervise ~~domiciliary homes for aged or disabled persons~~ adult care homes under the rules and regulations of the Social Services Commission;
- (9) To assist and cooperate with the Department of Correction and their representatives;
- (10) To act in conformity with the provisions of Article 7, Chapter 35 of the General Statutes with regard to sterilization of mentally ill and mentally retarded persons;
- (11) To investigate reports of child abuse and neglect and to take appropriate action to protect such children pursuant to the Child Abuse Reporting Law, Article 44 of Chapter 7A;
- (12) To accept children for placement in foster homes and to supervise placements for so long as such children require foster home care;

- (13) To respond by investigation to notification of a proposed adoptive placement pursuant to G.S. 48-3(b) and (c); and
- (14) To receive and evaluate reports of abuse, neglect, or exploitation of disabled adults and to take appropriate action as required by the Protection of the Abused, Neglected, or Exploited Disabled Adults Act, Article 6 of this Chapter, to protect these adults."

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

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

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

"§ 108A-47. Limitations on payments.

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

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

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

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

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

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

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and federally-operated facilities;
- (4) ~~Domiciliary care homes~~ Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child day care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;

- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; and
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14)."

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

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

- (a) The following definitions will apply in the interpretation of this section:
 - (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.
 - (1b) 'Adult care home' is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. Adult care homes and family care homes are subject to licensure by the Division of Facility Services.
 - (1b) 'Amenities' means services such as meals, housekeeping, transportation, and grocery shopping that do not involve hands-on personal care.
 - (1c) 'Assisted living residence' means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 1995, there are two types of assisted living residences: adult care homes and group homes for developmentally disabled adults. Effective July 1, 1996, there is a third type, multiunit assisted housing with services.

- (1d) 'Compensatory agent' means a spouse, relative, or other caretaker who lives with a resident and provides care to a resident.
- (2) 'Developmentally disabled adult' means a person who has attained the age of 18 years and who has a developmental disability defined as a severe, chronic disability of a person which:
- a. Is attributed to a mental or physical impairment or combination of mental and physical impairments;
 - b. Is manifested before the person attains age 22;
 - c. Is likely to continue indefinitely;
 - d. Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and
 - e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
- (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 which provides the supervision and personal care appropriate to their age or disability. Medical care at a domiciliary home is only occasional or incidental, such as may be given in the home of any individual or family, but medication is administered by designated staff of the home. Personal care given in a domiciliary home includes direct assistance, by designated staff, to residents in personal grooming, bathing, dressing, feeding, shopping, laundering clothes, handling personal finances, arranging transportation, scheduling medical or business appointments, as well as attending to any personal needs residents may be incapable of or unable to attend for themselves. Domiciliary homes are to be distinguished from nursing homes subject to licensure under G.S. 131E-102. 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 the illegal or improper use of an aged or disabled resident or his resources for another's profit or advantage.
- (5) 'Family care home' means ~~a domiciliary home~~ an adult care home having two to six 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—an adult care home~~ which has two to nine developmentally disabled adult residents.
- (7) ~~'Home for the aged and disabled' means a domiciliary home which has seven or more residents.~~
- (7a) Effective July 1, 1996, 'multiunit assisted housing with services' means an assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Facility Services and to provide a disclosure statement. The disclosure statement is required to be a part of the annual rental contract that includes a description of the following 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 assisted 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 assisted 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 assisted 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 assisted housing with services shall not care for individuals with any of the following conditions or care needs:

- (1) Ventilator dependency;
- (2) Dermal ulcers III and IV, except those stage III ulcers which are determined by an independent physician to be healing;
- (3) Intravenous therapy or injections directly into the vein, except for intermittent intravenous therapy managed by a home care or hospice agency licensed in this State;
- (4) Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold;
- (5) Psychotropic medications without appropriate diagnosis and treatment plans;
- (6) Nasogastric tubes;
- (7) Gastric tubes except when the individual is capable of independently feeding himself and caring for the tube, or as managed by a home care or hospice agency licensed in this State;
- (8) Individuals requiring continuous licensed nursing care;

- (9) Individuals whose physician certifies that placement is no longer appropriate;
 - (10) Unless the individual's independent physician determines otherwise, individuals who require maximum physical assistance as documented by a uniform assessment instrument and who meet Medicaid nursing facility level-of-care criteria as defined in the State Plan for Medical Assistance. Maximum physical assistance means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on a uniform assessment instrument;
 - (11) Individuals whose health needs cannot be met in the specific multiunit assisted housing with services as determined by the residence; and
 - (12) Such other medical and functional care needs as the Social Services Commission determines cannot be properly met in multiunit assisted housing with services.
- (a3) Hospice care. At the request of the resident, hospice care may be provided in an assisted living residence under the same requirements for hospice programs as described in Article 10 of Chapter 131E of the General Statutes.
- (b) Licensure; inspections. –
- (1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all ~~domiciliary homes~~ adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection ~~(d)~~ (c) 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 section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Social Services Commission, for substantial failure to comply with the provisions of this section or rules promulgated pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.
 - (1a) In addition to the licensing and inspection requirements mandated by subdivision (1) of this subsection, the Department shall ensure that ~~domiciliary care facilities~~ adult care homes required to be licensed by

this Article are monitored for licensure compliance on a regular basis. In carrying out this requirement, the Department shall work with county departments of social services to do the routine monitoring and to have the Division of Facility Services oversee this monitoring and perform any follow-up inspection called for.

- (2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.
- (3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.
- (4) 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 subsection (b):
 - a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and
 - b. Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;

unless the resident objects in writing to review of his records or disclosure of such information.

The facility, 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.

The Department shall not disclose:

- a. Any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or
- b. The name of anyone who has furnished information concerning a facility without that person's consent.

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

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

- ~~(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.~~

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

- (1) Facilities licensed under Chapter 122C or Chapter 131E of the General Statutes;
- (2) Persons subject to rules of the Division of Vocational Rehabilitation Services;
- (3) Facilities that care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration; and
- (4) Facilities that make no charges for housing, amenities, or personal care service, either directly or indirectly.

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

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

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

(c4) Housing programs for two or more unrelated adults that target their services to elderly or disabled persons in which the only services provided by the housing management, either directly or through an agreement or other arrangements, are amenities that include, at a minimum, one meal a day and housekeeping services, are

exempt from licensure, but are required to be listed with the Division of Aging, providing information on their location and number of units operated. This type of housing is not considered assisted living.

(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. 131E-102, entitled 'Licensure requirements.' If any nursing home licensed under G.S. 131E-102 also functions as a domiciliary home, then the domiciliary home component must comply with rules adopted by the Medical Care Commission.~~

(e) The Department of Human Resources shall provide the method of evaluation of residents in ~~domiciliary homes~~ adult care 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 section or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

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

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

- (1) In addition to the administrative penalties described in subsection (b), the Secretary may suspend the admission of any new residents to a ~~domiciliary home~~ an adult care home, where the conditions of the ~~domiciliary home~~ adult care home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.
- (2) In imposing a suspension under this subsection, the Secretary shall consider the following factors:
 - a. The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and
 - b. The character and degree of impact of the conditions at the home on the health or safety of its residents.
- (3) The Secretary of Human Resources shall adopt rules to implement this subsection.
- (4) Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of suspension of admissions to the licensee.

(i) Notwithstanding the existence or pursuit of any other remedy, the Department of Human Resources may, in the manner provided by law, maintain an action in the

name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of a ~~domiciliary home~~ adult care home without a license. Such action shall be instituted in the superior court of the county in which any unlicensed activity has occurred or is occurring.

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

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

Sec. 9. G.S. 131D-4.1 as added by Chapter 449 of the 1995 Session Laws reads as rewritten:

"§ 131D-4.1. ~~Domiciliary~~ Adult care homes; legislative intent.

The General Assembly finds and declares that the ability to exercise personal control over one's life is fundamental to human dignity and quality of life and that dependence on others for some assistance with daily life activities should not require surrendering personal control of informed decision making or risk taking in all areas of one's life.

The General Assembly intends to ensure that ~~domiciliary~~ adult care homes provide services that assist the residents in such a way as to assure quality of life and maximum flexibility in meeting individual needs and preserving individual autonomy."

Sec. 10. G.S. 131D-4.2 as enacted by Chapter 449 of the 1995 Session Laws reads as rewritten:

"§ 131D-4.2. ~~Domiciliary~~ Adult care homes; family care homes; annual cost reports; exemptions; enforcement.

(a) Except for family care homes, ~~domiciliary~~ adult care homes with a licensed capacity of seven to twenty beds, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit audited reports of actual costs to the Department at least every two years in accordance with rules adopted by the Department under G.S. 143B-10. For years in which an audited report of actual costs is not required, an annual cost report shall be submitted to the Department in accordance with rules adopted by the Department under G.S. 143B-10.

(b) Except for family care homes, ~~domiciliary~~ adult care homes with a licensed capacity of twenty-one beds or more, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit annual audited reports of actual costs to the Department of Human Resources, in accordance with rules adopted by the Department under G.S. 143B-10.

(c) Family care homes shall submit annual cost reports to the Department of Human Resources, in accordance with rules adopted by the Department under G.S. 143B-10.

(d) Facilities that do not receive State/County Special Assistance or Medicaid personal care are exempt from the reporting requirements of this section.

(e) The first audited cost report shall be for the period from January 1, 1995, through September 30, 1995, and shall be due March 1, 1996. Thereafter, the annual

reporting period shall be October 1 through September 30, with the annual report due by the following March 1.

(f) The Department shall have the authority to conduct audits and review audits submitted pursuant to subsections (a), (b), and (c) above.

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

- (1) Seek a court order to enforce compliance;
- (2) Suspend or revoke the facility's license, subject to the provisions of Chapter 150B of the General Statutes.

(h) The report documentation shall be used to adjust the ~~domiciliary~~-adult care home rate annually, an adjustment that is in addition to the annual standard adjustment for inflation as determined by the Office of State Budget and Management. The Department of Human Resources shall adopt rules for the rate-setting methodology and audited cost reports in accordance with G.S. 143B-10."

Sec. 10.1. G.S. 131D-4.3 as enacted by Chapter 449 of the 1995 Session Laws reads as rewritten:

"§ 131D-4.3. ~~Domiciliary~~-Adult care home rules.

(a) Pursuant to G.S. 143B-153, the Social Services Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by ~~domiciliary~~-adult care homes:

- (1) Client assessment and independent case management;
- (2) A minimum of 75 hours of training for personal care aides performing heavy care tasks and a minimum of 40 hours of training for all personal care aides. The training for aides providing heavy care tasks shall be comparable to State-approved Certified Nurse Aide I training. For those aides meeting the 40-hour requirement, at least 20 hours shall be classroom training to include at a minimum:
 - a. Basic nursing skills;
 - b. Personal care skills;
 - c. Cognitive, behavioral, and social care;
 - d. Basic restorative services; and
 - e. Residents' rights.

A minimum of 20 hours of training shall be provided for aides in family care homes that do not have heavy care residents. Persons who either pass a competency examination developed by the Department of Human Resources, have been employed as personal care aides for a period of time as established by the Department, or meet minimum requirements of a combination of training, testing, and experience as established by the Department shall be exempt from the training requirements of this subdivision;

- (3) Monitoring and supervision of residents; and
- (4) Oversight and quality of care as stated in G.S. 131D-4.1.

(b) Rules to implement this section shall be adopted as emergency rules in accordance with Chapter 150B of the General Statutes. These rules shall be in effect no later than January 1, 1996.

(c) The Department may suspend or revoke a facility's license, subject to the provisions of Chapter 150B, to enforce compliance by a facility with this section or to punish noncompliance."

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.

- (2) ~~'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 which provides the supervision and personal care appropriate to their age or disability. Medical care at a domiciliary home is only occasional or incidental, such as may be given in the home of any individual or family, but medication is administered by designated staff of the home. Personal care given in a domiciliary home includes direct assistance, by designated staff, to residents in personal grooming, bathing, dressing, feeding, shopping, laundering clothes, handling personal finances, arranging transportation, scheduling medical or business appointments, as well as attending to any personal needs residents may be incapable of or unable to attend for themselves. Domiciliary homes are to be distinguished from nursing homes subject to licensure under G.S. 131E-102. The three types of domiciliary homes are homes for the aged and disabled, family care homes and group homes for developmentally disabled adults.~~

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

- (2b) 'Assisted living residence' means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102.

- (3) 'Exploitation' means the illegal or improper use of an aged or disabled resident or his resources for another's profit or advantage.
- (4) 'Facility' means ~~a domiciliary home~~ an adult care home licensed pursuant to G.S. 131D-2.
- (5) 'Family care home' means ~~a domiciliary home~~ an adult care home having two to six 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~~ and adult care home which has two to nine developmentally disabled adult residents.
- (7) ~~'Home for the aged and disabled' means a domiciliary home which has seven or more residents.~~
- (8) 'Neglect' means the failure to provide the services necessary to maintain the physical or mental health of a resident.
- (9) 'Resident' means an aged or disabled person who has been admitted to a facility."

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

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

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

(b) Establishment and Appointment of Committees. –

- (1) A community advisory committee shall be established in each county ~~which that~~ has at least one licensed ~~domiciliary home~~, adult care home shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county ~~which that~~ has one, two, or three ~~homes for the aged and disabled~~, adult care homes with 10 or more beds, the committee shall have five members.
- (2) In a county with four or more ~~homes for the aged and disabled~~, adult care homes with 10 or more beds, the committee shall have one additional member for each ~~home for the aged and disabled~~ adult care home with 10 or more beds in excess of three, up to a maximum of 20 members. In each county with four or more ~~homes for the aged and disabled~~, adult care homes with 10 or more beds, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each ~~domiciliary home~~ adult care home in the county. Each member must serve on at least one subcommittee.

- (3) In counties with no ~~homes for the aged and disabled~~, adult care homes with 10 or more beds, the committee shall have five members. Regardless of how many members a particular community advisory committee ~~must~~ is required to have, at least one member of each committee shall be a person involved in the area of mental retardation.
- (4) The boards of county commissioners are encouraged to appoint the ~~Domiciliary Home~~ Adult Care Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) ~~must~~ shall be chosen from among persons nominated by a majority of the chief administrators of ~~domiciliary homes~~ adult care homes in the county. If the ~~domiciliary home~~ adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, ~~such~~ these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by July 1, 1983, the appointments shall be made by the Assistant Secretary ~~on~~ for Aging, Department of Human Resources, no sooner than 45 days after nominations have been requested from the ~~domiciliary home~~ adult care home administrators, but no later than October 1, 1983. In making ~~his~~ appointments, the Assistant Secretary for Aging shall follow the same appointment process as that specified for the County Commissioners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

enter the facility at other hours. Before entering any ~~domiciliary home~~, adult care home, the committee or members of the committee shall identify themselves to the person present at the facility who is in charge of the facility at that time.

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

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

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

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

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

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

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

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

"ARTICLE 4.

"Temporary Management of ~~Domiciliary Homes~~ Adult Care Homes."

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

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

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

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

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

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

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

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

"§ 131E-101. Definitions.

As used in this Part, unless otherwise specified:

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

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

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

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

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

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

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

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

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

"§ 131E-115. Legislative intent.

It is the intent of the General Assembly to promote the interests and well-being of the patients in nursing homes and ~~homes for the aged and disabled-adult care homes~~ licensed pursuant to G.S. 131E-102, and patients in a nursing home operated by a hospital which is licensed under Article 5 of G.S. Chapter 131E. It is the intent of the General Assembly that every patient'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 patient in the fullest possible exercise of these rights."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 29th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives