§ 131E-105. Inspections.

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

(b) Notwithstanding the provisions of G.S. 8-53, "Communications between physician and patient," or any other provision of law relating to the confidentiality of communications between physician and patient, the representatives of the Department, when necessary for investigating compliance with this Part or rules promulgated by the Commission, may review any writing or other record in any recording medium which pertains to the admission, discharge, medication, treatment, medical condition, or history of persons who are or have been patients of the facility being inspected unless that patient objects in writing to review of that patient's records. Physicians, psychologists, psychiatrists, nurses, and anyone else interviewed by representatives of the Department may disclose to these representatives information related to any inquiry, notwithstanding the existence of the physician-patient privilege in G.S. 8-53, "Communications between physician and patient," or any other rules of law, if the patient has not made written objection to this 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 which is provided without malice or fraud 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 patient 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 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, "`Public records' defined." Prior to releasing any information or allowing any inspections referred to in this subsection, the patient must upon admission be advised in writing by the facility that the patient has the right to object in writing to the release of information or review of the records and that by an objection in writing the patient may prohibit the inspection or release of the records.

(c) Authorized representatives of the Department with identification to this effect shall have at all times the right of proper entry upon any and all parts of the premises of any place in which entry is necessary to carry out the provisions of this Part or the rules adopted by the Commission. It shall be unlawful for any person to resist a proper entry by an authorized representative upon any premises other than a private dwelling. (1981, c. 586, s. 1; c. 614, s. 1; 1983, c. 775, s. 1; 1995, c. 535, s. 23.)