NORTH CAROLINA

STUDY COMMISSION ON AGING

REPORT TO THE GOVERNOR AND THE 2001 SESSION OF THE 2001 GENERAL ASSEMBLY

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North Carolina Study Commission On Aging

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PREFACE

As outlined in Chapter 120, Article 21 of the North Carolina General Statutes, the North Carolina Study Commission on Aging shall study and evaluate the existing system of delivery of State services to older adults, and recommend an improved system of delivery to meet the present and future needs of older adults. The Commission consists of 17 members. Eight are appointed by the Speaker of the House of Representatives, eight are appointed by the President Pro Tempore of the Senate, and the Secretary of the Department of Health and Human Services or his delegate serve as an ex officio non-voting member.

This report represents work performed by the North Carolina Study Commission on Aging from the conclusion of the 2000 Session of the 1999 General Assembly until the convening of the 2001 Session of the 2001 General Assembly. The Study Commission on Aging met on six occasions and heard from a variety of advocates and organizations representing older adults in North Carolina. Additionally, the Commission reviewed and formally addressed some of the issues presented at the three public hearings held in Monroe, Black Mountain and Greenville in March 2000.

EXECUTIVE SUMMARY

Older adults represent the fastest growing segment of North Carolina's population. According to the Division of Aging in the North Carolina Department of Health and Human Services, North Carolina's senior population is projected to number more than 1.2 million (14.1% of the State's population) by 2010. By 2020, the number is projected to grow to more than 1.6 million (17.3%), and by 2025, the population should exceed more than 2 million (21.4%). In response to this trend, the 1999 General Assembly enacted S.L. 1999-237, Section 11.7A, which directed the Department of Health and Human Services (DHHS), in cooperation with other State and local agencies and representatives of consumer and provider organizations, to develop a system that provides a continuum of long-term care for elderly and disabled individuals and their families. In response to this charge, DHHS asked the North Carolina Institute of Medicine (NCIOM) to convene a statewide task force to assist in developing a long-term care plan. Many of the North Carolina Study Commission on Aging's current recommendations are in response to the findings contained in *A Long-Term Care Plan for North Carolina*, the interim report by the North Carolina Institute of Medicine Long-Term Care Task Force to the North Carolina Department of Health and Human Services. Other recommendations are a result of presentations made by citizens at three public hearings held in early 2000, and by advocacy groups and provider organizations at other meetings of the Commission.

The Commission is responsible for studying the issues of availability and accessibility of health, mental health, social and other services needed by older adults. In its Report to the Governor and the 2001 Session of the 2001 General Assembly, the North Carolina Study Commission on Aging makes the following recommendations representing the Commission's identification and response to the most immediate needs currently facing older adults and their families:

GENERAL LONG-TERM CARE ISSUES

Recommendation 1
The Commission recommends that the 2001 General Assembly direct the Department of Health and Human Services to increase the medically needy income limits for eligibility for Medicaid to the maximum amount allowable under federal law.

Recommendation 2
The Commission recommends that the 2001 General Assembly issue a Joint Resolution urging Congress to adopt federal incentives to encourage the purchase of private long-term care insurance and to eliminate federal barriers to the expansion of Medicaid long-term care partnership plans.

Recommendation 3
The Commission recommends that the General Assembly direct the Department of Insurance and other entities to implement an outreach strategy to inform the public about long-term care funding and payment options.

Recommendation 4
The Commission recommends the General Assembly direct the Department of Health and

Human Services to increase the Community Alternative Program (CAP) income eligibility limits and appropriate the necessary funds.

Recommendation 5
The Commission recommends the General Assembly appropriate funds for labor enhancement payments for workers in long-term care facilities and agencies.

Recommendation 6
The Commission recommends the General Assembly direct the Department of Health and Human Services to study the designation of a lead agency for long-term care planning.

ADULT DAY CARE ISSUES

Recommendation 7
The Commission recommends the General Assembly amend G.S. 131D-6(b) to state that adult day care programs are not required to provide transportation to participants, however, those that do must comply with rules adopted.

Recommendation 8
The Commission recommends the General Assembly amend G.S. 143B-181.1(a) (11) to allow counties to establish the rates for reimbursement for adult day care services from Home and Community Care Block Grant funds.

Recommendation 9
The Commission recommends the General Assembly direct the Department of Health and Human Services to apply for a Medicaid Waiver to provide Medicaid coverage to adult day health services clients.

Recommendation 10
The Commission recommends the General Assembly appropriate funds to the Adult Day Care Fund to provide for a rate increase for adult day services.

Recommendation 11
The Commission recommends a rate increase for adult day care transportation.

OTHER AGING ISSUES

Recommendation 12
The Commission recommends the General Assembly establish a Legislative Study Commission on State Guardianship Laws.

Recommendation 13
The Commission recommends the General Assembly direct the Department of Health and Human Services to develop an instrument for assessing the quality of care provided by adult care homes.

Recommendation 14
The Commission recommends the General Assembly amend G.S. 105-129.16B to allow a pass-through entity to allocate a housing tax credit to any of its owners at the discretion of the pass-through entity.

NORTH CAROLINA'S OLDER ADULTS: A PROFILE *

Today's Older Population

In 1999, 961,406 of our State's 7,650,699 residents were age 65 and older (12.8%). Of these older adults, 107,847 were age 85 and older. While North Carolina ranked 11th nationally in total population in 1998, it ranked 10th in the number of persons age 50 and older as well as those age 65 and older. North Carolina also ranked 10th among states in the rate of growth of the population age 65 and older between 1990 and 1998, and 6th in the growth of this population in the most recently reported year (1998-99). Its rate of 17.5% for the period 1990 to 1998 far exceeded the national rate of 10.1%.

For 2000, projections show more than 1,003,292 persons aged 65 and older, or 12.9% of the State's 7,756,517 residents.

The differences among seniors are as great as within any age group. Still, there are some defining features:

- Older women outnumber older men. They represent 60.5% of those 65 and older, and 74% of the 85 and older age group.
- About 17% are of a minority race, mostly African-American.
- Only about 5% live in institutions or group residences. In 1990, more than half (58%) lived with their spouse; almost 28% lived alone. More than 3 out of 4 of those living alone were women.
- Nearly 57% did not complete high school.
- About 47% live in rural areas.
- About 79% own their homes, but with 33% living in housing built before 1950.
- In 1990, about 23.2% of older adults had a problem with at least one of the activities of daily living--getting around inside the house, bathing, dressing, eating, or using the toilet--or with mobility (getting around outside the house).
- Although the state poverty rate for older adults appears to be shrinking over the course of the 1990s, it still remains relatively high. Averaged over the years 1995 to 1997, the poverty rate for older North Carolinians was 12.5%, making it the 15th poorest state. In 1997, about 29% of non-institutionalized older adults in the state had incomes below 150% of the poverty level. For the year 2000, the federal poverty level for an individual is $8,350 and $11,250 for a couple.

Our cities, counties, and regions are aging at varying rates. The table in Appendix A gives the number and proportion of persons age 65 and older by county for 1999. This ranges from 25.9% in Polk County to 5.6% in Onslow County.

North Carolina's Demographic Shift

- Older adults are North Carolina's fastest growing population.

- By 2010, North Carolina's senior population is projected to number more than 1.2 million (14.1% of our State's population). By 2020, the number is projected to grow to more than 1.6 million (17.3%). By 2025, our senior population should exceed more than 2 million (21.4%).
- This aging of our population is also evident in the climbing median age, which in 1999 was 35.82 and is expected to increase to 38.30 in 2010, and 39.25 by 2020.
- All states are projected to show a decline in the proportion of youth (under 20 years old) in their populations from 1995 to 2025. The percentage of North Carolina's population classified as youth is projected to decrease from 27.7% in 1995 to 23.2% in 2025. In contrast, the size of the older population is projected to increase in all states over this 30-year period. Our percentage of older adults in 1999 has climbed to 12.8% and is projected to increase to 21.4% in 2025 which will rank 11th highest nationally.

Why This Demographic Shift

While much of the aging of our State's population has been attributed to the aging of the Boomer cohort (those born between 1946 and 1964), the primary reason has to do with birth rates. Since the end of the baby boom in 1964, women have chosen, on average, to have two children as opposed to the three averaged during the baby boom period. To a smaller degree, improved life expectancy has also caused our population to grow.

A third factor in the aging of our population is migration. Like most of the other sunbelt states, North Carolina has attracted young and middle-aged workers who are aging in place here. However, we are especially likely to attract people who migrate after retirement. We expect North Carolina to retain its high national ranking of 3rd in net migration of retirees when the results of the year 2000 Census are known.

What Are the Implications of This Shift

While the aging of our society is a national trend, it is especially true of North Carolina. This is relevant to all areas of our public and private lives. Government faces decisions about the allocation of public resources from a tax base that may experience slowed growth. People must consider living and caregiving arrangements in light of smaller nuclear and extended families. The health, human service, and education systems must adapt to changes in interests and needs due to a sophisticated senior baby boomer and a consistently large rural senior population. The business, cultural, and other communities must identify and respond to the challenges and opportunities of these demographic shifts. Government agencies and service providers also must overcome barriers that tend to isolate many NC seniors who are living in rural areas, are non-English speaking, are illiterate, and have limited or no support systems within the proportionately smaller younger population.

There are large numbers of seniors today who contribute to our families and communities as well as some who must ask for help. Our current experience, though, is nothing like what we will encounter in the near future. We must respond to the challenges of today and prepare to meet tomorrow's.

***** *Prepared by the Department of Health and Human Services, Division of Aging*

COMMISSION PROCEEDINGS

August 7, 2000

The North Carolina Study Commission on Aging met on Monday, August 7, 2000 at 10:00 a.m. in Room 1027 of the Legislative Building. Representative Beverly Earle was the presiding Co-Chair. The meeting focused on consumer evaluation of adult care homes and on the interim report by the North Carolina Institute of Medicine Long-Term Care Task Force to the North Carolina Department of Health and Human Services. In the area of consumer evaluation of adult care homes, the Commission heard presentations from Elise J. Bolda, Ph.D., Assistant Professor, Health Policy Institute, Muskie School of Public Service, University of Southern Maine and from Harriette Ackerman and Kay Barrow from the Department of Social Services, Buncombe County. Cynthia Freund, PhD., R.N., Former Dean, UNC School of Nursing and Senior Staff, Institute of Medicine made the presentation on the Institute of Medicine's interim report.

Dr. Elise Bolda, and Dr. Catherine Hawes are developing a quality measurement in residential care funded by the Agency for Healthcare Research and Quality (AHRQ). (The AHRQ is an agency in the US Department of Health and Human Services.) The project aims are as follows: define and operationalize valid and reliable quality measures of facility performance (Assessment Tool), "risk-adjust" quality measures relative to individual and organizational characteristics (Quality Indicators), and develop facility report cards. The project has a three-year timeline with expected completion in 2002.

Harriette Ackerman and Kay Barrow from the Buncombe County Department of Social Services presented to the Commission the adult care web site for Buncombe County. The web site (www.buncombe.org/ach/) features consumer information on the 104 homes located in Buncombe County.

Dr. Freund presented the report, A Long-Term Care Plan for North Carolina, Interim Report by the North Carolina Institute of Medicine Long-Term Care Task Force to the North Carolina Department of Health and Human Services. (Appendix B.) The report contains 32 recommendations; six of these require legislative action.

August 8, 2000

The North Carolina Study Commission on Aging met on Tuesday, August 8, 2000 at 9:00 a.m. in Room 1027 of the Legislative Building. Senator William Purcell was the presiding Co-Chair. The topics of discussion were Multiunit Assisted Housing with Services (MAHS) and funding and transportation for Adult Day Care. With regard to MAHS, the Commission heard from the following: Lynda McDaniel, Director, Division of Facility Services, Department of Health and Human Services (DHHS); Polly Williams, Chair of the Committee on Independent Housing with Services; Mary Rica Todd, North Carolina Housing Finance Agency; and Jerry Cooper, Executive Director, North Carolina Assisted Living Association. Fred Johnson, Legislative Chair, Adult Day Services Association, spoke on Adult Day Care issues.

S.L. 2000-67 (HB 1840), Section 11.11, directed the North Carolina Study Commission on Aging to study Multiunit Assisted Housing with Services (MAHS) facilities and to report not

later than February 1, 2001, to the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources. Mary Rica Todd, North Carolina Housing Finance Agency, outlined the following three programs designed to assist the elderly with housing: Rental Programs, Special Needs Housing Programs, and Housing Rehabilitation Programs. She explained the North Carolina Elderly Housing Rights and Consumer Protection Program provides information to consumers on housing rights, trains advocates and service providers and is funded by a grant from the US Administration on Aging. Lynda McDaniel, DHHS Division of Facility Services, provided information on the number of MAHS facilities listed with the State, a copy of the registration form used by a MAHS unit, and gave an overview of the registration procedure in North Carolina. Polly Williams, Committee on Independent Housing with Services, presented several ideas for independent housing with a focus on low and moderate-income residents. Jerry Cooper, North Carolina Assisted Living Association presented issues concerning independent living and assisted living.

Fred Johnson, Adult Day Services Association, presented the following four legislative priorities: Increase the amount of State Adult Day funds, Remove language from adult day care center standards that states that "Centers shall provide transportation," Allow communities to set their own adult day center rates in the Home and Community Care Block Grant, and Expand Medicaid coverage to include adult day health services.

August 30, 2000

The North Carolina Study Commission on Aging met on Wednesday, August 30, 2000 at 10:00 a.m. in Room 1027 of the Legislative Building. Representative Beverly Earle was the presiding Co-Chair. Presentations at this meeting focused on exploitation of the elderly, a report on the Special Assistance Demonstration Project, home and hospice care, a summary of the Commission's public hearings, and a summary of the 2000 Legislative Session. Presenters included: Brenda Humphrey, Director, Safeguarding Against Fleecing the Elderly (SAFE); John Tanner, Chief, Adult and Family Services, Division of Social Services, DHHS; Michael Bell, Executive Vice President, Home and Hospice Care of North Carolina; and Commission staff.

John Tanner, Division of Social Services, presented a report on the Special Assistance Demonstration Project. In the 1997 Session, the General Assembly directed DHHS to study ways to provide assistance that supports a range of living arrangements for elderly and disabled adults who are eligible for Medicaid or State/County Special Assistance (SA) for Adults. The Department completed the study and issued a report that requested the opportunity to carry out a time-limited demonstration project. The project would be designed to help individuals at risk of entering an adult care home live safely at home when that is what they chose to do and when SA payments and in-home services would enable them to do so. S.L. 2000-67 extended the project operation dates until June 2002. This will allow the county departments of social services a full two-year period in which to gain experience with any problem areas that need to be addressed and enables the Department to collect and analyze data needed to make recommendations about the feasibility of statewide implementation.

Brenda Humphrey, SAFE, presented information regarding a personal experience involving her mother and her experience with North Carolina's guardianship laws. Commission members expressed an interest in exploring this issue in greater detail.

Michael Bell, Home and Hospice Care of North Carolina, presented the Commission with information on the licensing rules for home care agencies, explained how reimbursement rates are set, and submitted a proposal for labor enhancement of reimbursement rates. Mr. Bell presented a handout comparing personal care service reimbursement rates in 1997 to those in 1998. He pointed out that while the reimbursement rate increased $0.32/hr. during this time frame, the in-home aide wage and benefit rate increased $0.35/hr. Proposals included: 1) Triennial labor study of wage rates for competitive positions, 2) The application of an overhead allocation based on historical cost reports, 3) A cost of living adjustment based on CPI, to labor and overhead portion in the interim years, and 4) Continued submission of cost reports to track trend in labor and overhead allocation.

Commission staff presented a summary of the 2000 Legislative Session and of the Commission's public hearings. The public hearings took place on March 13, 14, and 20, 2000 in Monroe, Black Mountain, and Greenville. (Appendix C.) Comments from the hearings were grouped and ranked according to frequency of occurrence. The grouping with the highest frequency was Home Based Support Services. The individual services for which members of the public expressed greatest interest and encouraged continued support were as follows: Senior Games, Transportation Services, In-Home Aides, Adult Day/Adult Day Health Services, Programs and Appropriate Staffing for Alzheimer's Patients, and Prescription Drug Assistance.

September 26, 2000

The North Carolina Study Commission on Aging met on Tuesday, September 26, 2000 at 10:00 a.m. in Room 1027 of the Legislative Building. Senator William Purcell was the presiding Co-Chair. Presentations at this meeting included: John Saxon, Professor of Public Law and Government, Institute of Government, on guardianship laws; Beverly Wheeler, Special Needs Coordinator, Pitt County Emergency Services, on disaster issues in adult care homes; Steve Culnon, Director of Rental Investment, Housing Finance Agency on the topic of federal and State tax credits; Daphne Lyon, Deputy Director, Division of Medical Assistance, on Medicaid Issues; and finally William Lamb, Assistant Director for Public Service, UNC Institute of Medicine, on Community Alternatives Program-Expansion Barriers.

John Saxon, Institute of Government, provided the Commission with two handouts on the issue of guardianship. Mr. Saxon explained that guardianship is a legal relationship in which a person or agency (the guardian) is appointed by a court to make decisions and act on behalf of another person (the ward) with respect to the ward's personal or financial affairs because the ward, due to a specific mental or physical impairment, lacks sufficient capacity to make or communicate important decisions concerning his or her person, family, or property or lacks sufficient capacity to manage his or her personal or financial affairs. Laws regarding guardianship for incapacitated adults attempt to strike a balance between preserving the legal rights, freedom, and autonomy of individuals vs. society's duty (parens patriae) to protect individuals who are unable to protect or care for themselves.

Beverly Wheeler, Special Needs Coordinator, Pitt County Emergency Services, made a presentation on generator readiness in adult care homes. She stated that more needs to be done to insure the safety of vulnerable adult care homes populations during hurricanes, floods, ice storms and other natural and manmade disasters.

Steve Culnon, Director of Rental Investment, Housing Finance Agency, spoke on the 1986 reform tax credits sold to investors. The tax credit produces about 2000 units per year and although available to all counties, the poorest counties are targeted.

William Lamb, Assistant Director for Public Service, UNC Institute of Medicine, presented information on expansion barriers to the Community Alternatives Program (CAP). Mr. Lamb distributed handouts on the 1999 CAP/DA Utilization per 1000 Medicaid Aged, Blind Disabled for each county in the State. The range is from 8 to 203 CAP clients per 1,000 Medicaid Aged Blind and Disabled. Caseloads are relatively the same per case manager, thus the variation exists in lead agencies' ability to support case managers. Case management payment rates sometimes hinder adding case managers and the availability of in-home aides is beginning to be a factor. Mr. Lamb also presented a handout and information on rates for nursing facilities, adult care home-personal care services, home health, CAP-DA, and CAP-MR.

November 21, 2000

The North Carolina Study Commission on Aging met on Tuesday, November 21, 2000 at 10:00 a.m. in Room 1027 of the Legislative Building. Senator William Purcell was the presiding Co-Chair. General Assembly staff presented to the Commission draft legislative proposals for the 2001 Session. These bills were divided into the following groups: Institute of Medicine Recommendations, Adult Day Care Recommendations, and Recommendations from Commission Discussion. The Commission reviewed the bill drafts giving initial approval to some of the drafts and requesting additional information on others. Staff was requested to conduct additional research on particular issues and report back to the Commission.

As a follow-up to the August 8, 2000 discussion, the Commission discussed Multiunit Assisted Housing with Services (MAHS). The Commission was directed by S.L. 2000-67 (HB 1840), Section 11.11 to study this issue. Following much discussion, the Commission determined that this is an evolving issue and clear direction for the 2001 General assembly is not readily apparent. Thus, the North Carolina Study Commission on Aging voted to make no recommendation to the 2001 General Assembly concerning the current statutory framework for Multiunit Assisted Housing with Services. The Commission also voted to continue to monitor the development and the need for any statutory changes for Multiunit Assisted Housing with Services.

The Commission heard from Polly Williams, Chair of the Committee on Independent Housing with Services; and Mary Rica Todd, North Carolina Housing Finance Agency. They presented information on Project-Based Rental Assistance and the Service Coordinator Incentive Match Program.

January 17, 2001

The North Carolina Study Commission on Aging met on January 17, 2001 in room 414 of the Legislative Office Building. Members discussed and approved the Commission's Report to the Governor and to the 2001 Session of the 2001 General Assembly.

ISSUES ASSIGNED TO THE COMMISSION

Multiunit Assisted Housing with Services (MAHS)

S.L. 2000-67 (HB 1840), Section 11.11, directed the North Carolina Study Commission on Aging to study Multiunit Assisted Housing with Services (MAHS) facilities and to report not later than February 1, 2001, to the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Human Resources. The study was to include the following:

(1) What strategies may be employed at the State and local level to ensure registration of MAHS facilities with the Department of Health and Human Services, as required under G.S. 131D-2(a) (7a).
(2) Whether persons requesting access to MAHS facilities should be included in the assessment process that is part of the uniform portal of entry system.
(3) Whether an advocacy and oversight system for MAHS facilities should be developed that is comparable to the advocacy and oversight system in place for adult care homes.

As required by S.L. 2000-67, the North Carolina Study Commission on Aging addressed Multiunit Assisted Housing with Services at two separate meetings. On August 8, 2000 the Commission heard presentations from the following experts: Mary Rica Todd, North Carolina Housing Finance Agency; Lynda McDaniel, Director, Division of Facility Services at the Department of Health and Human Services; Polly Williams, Committee on Independent Housing with Services; and Jerry Cooper, Executive Director, North Carolina Assisted Living Association. The Commission again addressed this issue at a meeting on November 21, 2000. Following much discussion, the Commission believes that this is an evolving issue and clear direction for the 2001 General Assembly is not readily apparent. Based on Commission discussion at two separate meetings, the North Carolina Study Commission on Aging voted to make no recommendation to the 2001 General Assembly concerning the current statutory framework for Multiunit Assisted Housing with Services. The Commission also voted to continue to monitor the development and the need for any statutory changes for Multiunit Assisted Housing with Services.

Biannual Inspection and Grading of Adult Care Homes

From S.L. 1999-395, Section 2.1, (4) b., the Legislative Research Commission referred the following topic to the North Carolina Study Commission on Aging: Biannual Inspection and Grading of Adult Care Homes. The Commission has had great interest in this topic over the years and welcomed the direction given by the Legislative Research Commission to more thoroughly analyze the possibility of a system that would give consumers help in selecting an appropriate facility. The Commission has studied this issue and recommends the General Assembly direct the Department of Health and Human Services to develop an instrument for assessing the quality of care provided by adult care homes.

COMMISSION RECOMMENDATIONS

The North Carolina Study Commission on Aging makes the recommendations outlined below. Each recommendation is followed by background information and the actual legislative proposals appear in the Appendices section of this report. To ease identification, the recommendations have been grouped.

GENERAL LONG-TERM CARE ISSUES

Recommendation 1

The Commission recommends that the 2001 General Assembly direct the Department of Health and Human Services to increase the medically needy income limits for eligibility for Medicaid to the maximum amount allowable under federal law.

Background

The IOM Long-Term Care Task Force found that Medicaid is the most viable source of public financing of long-term care services since the federal government pays 62.5% of costs. Currently, individuals with high medical expenses who would otherwise not qualify for Medicaid may still be able to qualify under the medically needy program.

The Commission agrees with recommendation #20 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000, to increase the medically needy income limits for Medicaid eligibility to the maximum amount allowable under federal law.

Recommendation 2

The Commission recommends that the 2001 General Assembly pass a Joint Resolution urging Congress to adopt federal incentives to encourage the purchase of private long-term care insurance and to eliminate federal barriers to the expansion of Medicaid long-term care partnership plans.

Background

Sixty percent of persons who live to age 65 will need long-term care some time during their lifetime. State law gives individuals a 15% tax credit up to $350/year for the purchase of long-term care insurance. Federal law allows a tax deduction if medical expenses (including long-term expenses) exceed 7.5% of income. Private long-term care insurance increases the possibility that individuals and families avoid the financial ruin often associated with long-term care and offers a greater choice of providers than does Medicaid or other public sources that pay for services. This Commission recommendation is consistent with recommendation #28 from the IOM Long-Term Care Task Force that stated, "The General Assembly should pass a resolution to encourage the NC Congressional delegation to support federal incentives to purchase private long-term care insurance, such as federal tax credits or deductions, flexible savings accounts or cafeteria plans."

Under Medicaid long-term care partnership plans, a person who purchases a private long-term care insurance policy that meets certain criteria and requirements, may later qualify for Medicaid after their private coverage is exhausted. Individuals are expected to contribute their income toward the cost of Medicaid covered long-term care services, but could retain some or all of their assets. Partnership plans are currently limited by federal law to four states (CA, IN, NY, CT).

This Commission recommendation is consistent with recommendations #28 and #29 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000, that stated, "The General Assembly should pass a resolution to encourage the NC Congressional delegation to eliminate federal barriers to expansion of Medicaid long-term care partnership plans."

Recommendation 3

The Commission recommends that the General Assembly direct the Department of Insurance and other entities to implement an outreach strategy to inform the public about long-term care funding and payment options.

Background

Private long-term care policies generally provide coverage for home health, adult day care, assisted living facilities, and nursing homes. Two primary benefits of private long-term care is asset preservation and a greater choice of providers compared to Medicaid or other public sources. According to the IOM report, "There are currently about 67 companies selling long-term care insurance in North Carolina. Information from the National Association of Insurance Commissioners show that there were 41,468 individuals covered by private long-term care insurance in North Carolina in 1998." The cost of a long-term care policy varies based on the benefits selected and the age of the purchaser. The Seniors Health Insurance Information Program (SHIIP) in the NC Department of Insurance offers information and counseling about long-term care policies.

The IOM Task Force made the following recommendation, "The NC Department of Insurance in conjunction with the NC Division of Aging, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services, and other appropriate groups should develop an outreach strategy to inform the public about long-term care funding or payment options. The outreach effort should include information on what Medicare covers, what Medicaid covers, what individuals must pay on their own, and what private long-term care insurance can cover. Public education efforts should target employers, "baby-boomers," financial advisors, CPAs, banks and the legal community. The state should develop multiple outreach strategies including community education, the Internet, and mass media. Further information on the long-term care options could be incorporated into the curricula of courses offered in the community college system on estate and financial planning. Also the outreach should include information about the impartial counseling services offered by the NC Department of Insurance's SHIIP program."

Private long-term care policies may be cost prohibitive for some older adults, and obtaining coverage may not be a viable option for individuals who already have health problems and are likely to need long term care. However, in light of the trend showing increasing numbers of older adults in North Carolina, the Commission feels that private long-term care insurance is a significant option that merits further outreach. Thus the Commission's recommendation is consistent with recommendation #26 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000.

Recommendation 4

The Commission recommends the General Assembly direct the Department of Health and Human Services to increase the Community Alternative Program (CAP) income eligibility limits and appropriate the necessary funds.

Background
Recommendation #22 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000, states that, "North Carolina should increase the Community Alternative Program (CAP) income eligibility limits to 300% SSI (currently $1,536/month for an individual), and allow the individual to deduct the same maintenance amount as allowed for individuals in nursing homes to support the community spouse."

The Commission agrees with the IOM Long-Term Care Task Force recommendation to increase the income eligibility limit for the Community Alternative Program to three hundred percent (300%) of income eligibility for federal Supplemental Security Income (SSI) benefits. The Commission also recommends that the Department of Health and Human Services allow individuals to deduct the same amount in maintenance allowance to support the recipient's spouse in the community as allowed for individual's in nursing homes. An appropriation of $5,699,558 for the 2001-2002 fiscal year would allow 1,516 slots. An appropriation of $14,954,126 for the 2002-2003 fiscal year would support the slots started in 2001-2002 and allow 1,375 more slots. These appropriations would increase eligibility while providing more slots for the system.

Recommendation 5

The Commission recommends the General Assembly appropriate funds for labor enhancement payments for workers in long-term care facilities and agencies.

Background
This Commission recommendation is consistent with recommendation #11 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000.

The IOM Long-Term Care Task Force Interim Report has an entire chapter devoted to work force issues. The Task Force consulted several sources focusing on the nurse aide recruitment and retention problem including surveys and research conducted by the Division of Facility Services in DHHS and the NC Institute on Aging. The following are excerpts from the section on nurse aides:

- "North Carolina is in the midst of a long-term care workforce crisis. Efforts to design a long-term care system that ensures availability of services and high-quality care is somewhat meaningless, absent a supply of trained professional and paraprofessional staff – including nurse aides, nurses, doctors and allied health professionals."

- "Nurse aides and other paraprofessionals provide most of the direct long-term care services to individuals, whether at home or in a facility. These workers help individuals with their most basic needs – including bathing, dressing, eating, and toileting. In addition, paraprofessionals often help with housekeeping tasks, and may help administer medications, change bandages or monitor changes in a person's health status."

- "The annual turnover rate among aides who worked in nursing homes exceeded 100% in 1999. The annual turnover rate was even higher among aides who worked in adult care homes (140%)."

- "North Carolina will need more than 21,000 additional nurse aides and other paraprofessionals to meet the long-term care needs of older adults and people with disabilities over the next five years."

- "There are a number of reasons for the problems in recruiting and retaining paraprofessionals: low wages, few benefits, no career path, physically demanding work, lack of opportunity for meaningful input into client care, inadequate recognition and appreciation and inadequate exposure to "real life" job demands during training."

Based on a 1999 survey conducted by the Division of Facility Services, DHHS, other states are experiencing a similar problem and are beginning to address the problem in the following ways: wage and benefit pass-throughs, enhancement incentives, higher reimbursement for shift differentials, transportation reimbursement, career ladders, training, training former welfare recipients, and training volunteer populations.

The Task Force also looked at the supply of other health professionals including: registered nurses, geriatricians and geriatric nurse practitioners, and physical therapists and physical therapy associates. The IOM Long-Term Care Task Force recommends that, "The North Carolina General Assembly should enact a carefully monitored 'labor enhancement' to publicly-fund long-term care reimbursement rates to improve staff recruitment and retention. Providers should be allowed flexibility in utilizing labor enhancement funds, so long as its use is directed toward its intended purpose. Managers need the flexibility to vary salary increases among staff, especially senior certified nurse aides. Further adding staff, increasing benefits, offering shift differential payment levels, developing scholarship programs and other innovative mechanisms to stabilize the workforce may be more appropriate solutions in some cases. The NC Department of Health and Human Services should develop safeguards to ensure that the enhanced reimbursement rates are used for staff recruitment and retention."

The Commission agrees with the findings of the IOM Long-Term Care Task Force regarding the long-term care workforce crisis. The turnover, pay, training, and quality of aides were among the top concerns expressed during the public hearings the Commission conducted in March 2000. Additionally, nurse aides and other aide workers provide about 90% of all the paid long-term care needed by older adults and North Carolina invests more than $1.4 billion in services that rely heavily on the aide workforce. Therefore, the Commission recommends the General Assembly enact legislation establishing the following:

- a system for labor enhancement payments,
- a program to facilitate the development of a stable, well-trained labor force to provide long term care services,
- a career ladder and associated new curricula requirements and job category qualifications for long-term care aide workers,
- the compilation and evaluation of demographic, turnover and wage and benefit data for the long-term care aide workforce
- a study of workforce issues pertaining to the long-term care aide workforce.

Recommendation 6

The Commission recommends the General Assembly direct the Department of Health and Human Services to study the designation of a lead agency for long-term care planning.

Background
The IOM Long-Term Care Task Force found that "long-term care services are often fragmented, duplicative, complex, and not consumer-friendly. Further many counties lack needed core long-term care services. Most, if not all, counties in the state have planning bodies that are charged with developing plans for specific long-term care services. Under state law, county commissioners must designate lead agencies for the Home and Community Care Block Grant (HCCBG) and the Medicaid Community Alternative Program for Disabled Adults (CAP-DA). In all but about 20 counties, these lead agencies are separate organizations. A small number of counties have initiated a more comprehensive and inclusive planning process to identify needed long-term care resources and to reduce fragmentation."

The Commission agrees with the findings and recommendation #10 from the IOM Long-Term Care Task Force Interim Report of June 30, 2000, and asks the General Assembly to direct the Department of Health and Human Services to study whether counties should designate local lead agencies to organize a local long-term care planning process. The Department shall consider how a lead agency for long-term care planning at the local level would relate to other requirements for county planning and long-term care and shall report its findings and recommendations to the Commission.

ADULT DAY CARE ISSUES

Recommendation 7

The Commission recommends the General Assembly rewrite G.S. 131D-6(b) to state that adult day care programs are not required to provide transportation to participants, however, those that do must comply with rules adopted.

Background
An adult day care is a community-based program that provides activities to foster the social, physical, and emotional well being of older adults. Transportation to and from the program may be provided or arranged. With regard to transportation, the rules for adult day care state the following:

10 NCAC 42E.1103 Transportation

(a) The day care program shall provide transportation in keeping with the needs of participants. The following requirements must be met to ensure the health and safety of the participants:

(1) Each person transported must have a seat in the vehicle.

(2) Participants shall be transported no more than 30 minutes without being offered the opportunity to have a rest stop.

(3) Vehicles used to transport participants shall be equipped with seatbelts. Participants shall be instructed to use seatbelts while being transported.

(b) It is desired that participants use public transportation, if available. Relatives and other responsible parties should be encouraged to provide regular transportation, if possible.

In addition to the activities offered in an adult day care program, adult day health care programs offer health care services to meet the needs of individual participants. 10 NCAC 42Z.0804 Transportation for Adult Day Health, does not seem to require that these programs provide transportation.

The North Carolina Adult Day Services Association presented information to the Commission on August 8 and on November 21 regarding the transportation costs to and from adult day and adult day health centers. They explained that costs have increased so dramatically that the transportation costs for some participants are greater than the cost of attending the center. In their presentation of August 8, 2000, the Association states, "Para-transit costs coupled with legislative mandates have created an untenable situation for many Day Centers. They are paying for transportation services mandated by a third party (DSS or CAP/DA) without any control over cost and without adequate reimbursement."

The Division of Aging also presented information to the Commission that stated, "The current survey indicates that most centers have limited transportation service areas and do limit transportation services to ambulatory clients." Additionally the Division recommended an increase in transportation funding which is addressed in Recommendation #10.

After consideration of all the information, the Commission recommends an amendment to G.S. 131D-6(b) to state that, "Adult day care programs are not required to provide transportation to participants, however, those that choose to provide transportation shall comply with rules adopted by the Commission for the health and safety of participants during transport."

Recommendation 8

The Commission recommends the General Assembly amend G.S. 143B-181.1(a) (11) to allow counties to establish the rates for reimbursement for adult day care services from Home and Community Care Block Grant funds.

Background

On August 8 and November 21, the Commission addressed the issue of reimbursement rates for adult day care services. The Division of Aging funds adult day services through the Home and Community Care Block Grant (HCCBG) and the State Adult Day Services Fund (SADSF). G.S. 143B-181.1 outlines the powers and duties of the Division of Aging. G.S. 143B-181.1(a)(10) and (11) covers the establishment of a fee schedule to cover the cost of providing in-home and community-based services, and the administration of a Home and Community Care Block Grant for older adults. The adult day services rates are set through the Social Services Commission. The powers and duties of the Social Services Commission is covered in G.S. 143B-153. The Division of Aging has coordinated the rates with DSS rates since maximum rates were first approved by the Commission in 1992. The Division of Aging assumed responsibility for administering the State Adult Day Care Fund from DSS on July 1, 1998.

G.S. 143B-181.1

…

(10) To establish a fee schedule to cover the cost of providing in-home and community-based services funded by the Division. The fees may vary on the basis of the type of service provided and the ability of the recipient to pay for the service. The fees may be imposed on the recipient of a service unless prohibited by federal law. The local agency shall retain the fee and use it to extend the availability of in-home and community-based services provided by the Division in support of functionally impaired older adults and family caregivers of functionally impaired older adults;

(11) To administer a Home and Community Care Block Grant for older adults, effective July 1, 1992. The Home and Community Care Block Grant shall be comprised of applicable Older Americans Act funds, Social Services Block Grant funding in support of the Respite Care Program (G.S. 143B-181.10), State funds for home and community care services administered by the Division of Aging, portions of the State In-Home and Adult Day Care funds (Chapter 1048, 1981 Session Laws) administered by the Division of Social Services which support services to older adults, and other funds appropriated by the General Assembly as part of the Home and Community Care Block Grant. Funding currently administered by the Division of Social Services to be included in the block grant will be based on the expenditures for older adults at a point in time to be mutually determined by the Divisions of Social Services and Aging. The total amount of Older Americans Act funds to be included in the Home and Community Care Block Grant and the matching rates for the block grant shall be established by the Department of Health and Human Services, Division of Aging. Allocations made to counties in support of older adults shall not be less than resources made available for the period July 1, 1990, through June 30, 1991, contingent upon availability of current State and federal funding; and

…

G.S. 143B-181.1(c) states The Secretary of Health and Human Services shall adopt rules to implement this Part and Title 42, Chapter 35, of the United States Code, entitled Programs for Older Americans.

The North Carolina Study Commission on Aging recommends that counties be allowed to establish the rates for reimbursement for adult day services from the Home and Community Care Block Grant Fund.

Recommendation 9

The Commission recommends the General Assembly direct the Department of Health and Human Services to apply for a Medicaid Waiver to provide Medicaid coverage to adult day health services clients.

Background

The Commission addressed the issue of Medicaid coverage for adult day health clients on January 13, 2000 and on August 8, 2000. The Commission heard from the Division of Aging, the Division of Medical Assistance, adult day care providers, and the North Carolina Adult Day Services Association. Through these presentations the Commission learned that other states have either expanded Personal Care Services to include adult day health services or they have established day rehabilitation services in their regular Medicaid program.

The Commission recommends that the Department of Health and Human Services apply to the United States Health Care Financing Administration for a waiver to provide Medicaid coverage for eligible clients of adult day health services.

Recommendation 10

The Commission recommends the General Assembly appropriate funds to the Adult Day Care Fund to provide for a rate increase for adult day services.

Background

The Division of Aging funds adult day services through the Home and Community Care Block Grant (HCCBG) and the State Adult Day Services Fund (SADSF). According to a report on November 21, 2000 by the Division of Aging, SFY 00-01 projected budgets reflect the following:

State Adult Day Services Fund (SADSF)					
	Federal	**State**	**Local**	**Total**	**Projected Clients**
Adult Day Care	$1,616,476	$549,656	$309,447	$2,475,579	982
Adult Day Health Care	$538,825	$183,219	$103,149	$825,193	336
TOTAL	**$2,155,301**	**$732,875**	**$412,596**	**$3,300,772**	**1,318**
	65.30%	22.20%	12.50%	100%	

Home and Community Care Block Grant (HCCBG)					
	Federal	**State**	**Local**	**Total**	**Projected Clients**
Adult Day Care	$630,131	$945,191	$175,031	$1,750,353	710
Adult Day Health Care	$443,558	$665,337	$123,212	$1,232,107	429
TOTAL	**$1,073,689**	**$1,610,528**	**$298,243**	**$2,982,460**	**1,139**
	36.00%	54.00%	10.00%	100%	

GRAND TOTAL					
	Federal	**State**	**Local**	**Total**	**Projected Clients**
	$3,128,989	**$2,343,402**	**$710,839**	**$6,283,232**	**2,457**
	51.40%	37.30%	11.30%	100%	

Title 10 of the North Carolina Administrative Code (10 NCAC 22P.0201 Maximum Reimbursement Rates) currently reflects inaccurate reimbursement rates for adult day care. According to the DHHS, the current reimbursement rates are $23.07 for adult day care and $30.00 for adult day health care. The current transportation reimbursement rate for both programs is $3.00 for a round trip. These rates were effective 7/1/97.

CURRENT REIMBURSEMENT RATES				**REVISED REIMBURSEMENT RATES ***			
	Daily	Transportation	Total	Daily	Transportation	Total	Difference
Adult Day Care	$23.07	$3.00	$26.07	$31.00	$9.60	$40.60	+14.53
Adult Day Health Care	$30.00	$3.00	$33.00	$44.00	$9.60	$53.60	+20.60

In the fall of 2000, the Division of Aging conducted a survey of service providers to determine average rate charged by adult day and adult day health programs. Out of the 119 certified centers surveyed, the Division was able to use responses from 55 programs, for a response rate of 46%. Results from the survey indicated that the average daily cost per client is $35.30 for adult day care and $46.73 for adult day health care. When compared to capacity, the overall attendance rate is 61%.

The Division of Aging reported to the Commission that the survey for 1998 indicated an average

daily rate of $37.85 for adult day care and $48.01 for adult day health care, with an attendance rate of 57%. (The NC Adult Day Care Association considers an attendance rate of 80% to be maximum capacity because the certified capacity may factor in long-term growth.) The Division believes the comparison of data from these two surveys indicates the emergence of an economy of scale.

* At the Commission's request, the Division of Aging analyzed the actual cost of service. The Division reported that, "Based upon survey data, adult day care daily care costs per client are decreasing at the rate of $.6375 for each percent increase in average overall attendance. The rate of decrease is $.3225 for adult day health care." Thus the Commission recommends an appropriation of $805,640 for the 2001-2002 fiscal year and $805,640 for the 2002-2003 fiscal year. The funds shall be used to increase reimbursement rates to $31.00 per day per client for adult day care and $44.00 per day per client for adult day health care.

Recommendation 11

The Commission recommends a rate increase for adult day care transportation.

Background

On August 8 and November 21, the Commission heard presentations on reimbursement rates for transportation services to adult day care programs. The Commission asked the Division of Aging to examine service rates that reflect the actual cost of service. Based on survey data, the Division of Aging recommended funding transportation at $9.60, which is the median round trip cost per client. The current transportation reimbursement rate for both adult day care and adult day health care is $3.00.

On January 17, 2001, the Commission agreed to include in the final report, a recommendation for a rate increase for adult day care transportation. This recommendation does not have a corresponding legislative proposal in this report.

OTHER AGING ISSUES

Recommendation 12

The Commission recommends the General Assembly establish a Legislative Study Commission on State Guardianship Laws.

Background

On August 30 and September 26, the Commission heard presentations addressing North Carolina's guardianship laws. Guardianship is a legal relationship in which a person or agency (the guardian) is appointed by a court to make decisions and act on behalf of another person (the ward) with respect to the ward's personal or financial affairs because the ward, due to a specific mental or physical impairment, lacks sufficient capacity to make or communicate important decisions concerning his or her person, family, or property or lacks sufficient capacity to manage his or her personal or financial affairs. Laws regarding guardianship for incapacitated adults attempt to strike a balance between preserving the legal rights, freedom, and autonomy of individuals vs. society's duty (parens patriae) to protect individuals who are unable to protect or care for themselves.

A presentation and handouts from the Institute of Government outlined the legal background and issues of interest with regard to guardianship. Guardianship was seriously studied for the first

time in 1977. Prior to 1977, the laws were out-of-date, incomplete and unclear. The 1977 amendments improved procedures and increased legal protections for the respondent. In 1987, G.S. Chapter 35A was recodified and minor substantive changes were made. In 1995, a Legislative Research Commission study and report focused primarily on guardianship services provided by local human service agencies; however, the recommendations were not enacted.

The North Carolina Study Commission on Aging recognizes that the laws pertaining to guardianship are important for the protection of citizens who are unable to make personal decisions due to impairment or incapacity and that these laws have not been thoroughly reviewed in twelve years. Therefore, the Commission recommends the General Assembly establish a Legislative Study Commission on State Guardianship Laws.

Recommendation 13

The Commission recommends the General Assembly direct the Department of Health and Human Services to develop an instrument for assessing the quality of care provided by adult care homes.

Background

The Studies Act of 1999, S.L. 1999-395, Section 2.1 4. (b) (HB 163) stated that the Legislative Research Commission may study, "Biannual inspection and grading of adult care homes by county social services departments, including areas and services to be inspected and graded, penalties for failure to meet minimal grade levels, fiscal impact on county social services departments, posting of grade in the adult care home, and related issues." The Legislative Research Commission referred this issue to the North Carolina Study Commission on Aging. The Commission studied this issue in 1999 and 2000 and is required to report back to the Legislative Research Commission in January 2001.

In 1999, North Carolina's percentage of older adults climbed to 12.8%. This percentage is projected to increase to 21.4% in 2025, which will rank North Carolina as having the 11th highest older adult population nationally. There are three factors contributing to the increase of older adults in North Carolina: aging baby boomers and a decrease in births, increased life expectancy, and migration to North Carolina. The increasing number of older adults as potential adult care home residents necessitates the need for the development of an assessment instrument for adult care homes. This assessment instrument will aid consumers in the evaluation and comparison of physical plant, care, services provided, and costs associated with residency in adult care homes.

On August 7, 2000, the North Carolina Study Commission on Aging heard presentations on the development of a quality measurement in residential care being funded by the Agency for Healthcare Research and Quality (AHRQ). (The AHRQ is an agency in the US Department of Health and Human Services.) The project aims are as follows: define and operationalize valid and reliable quality measures of facility performance (Assessment Tool), "risk-adjust" quality measures relative to individual and organizational characteristics (Quality Indicators), and develop facility report cards. The project has a three-year timeline with expected completion in 2002. On this date, the Commission also heard from the Buncombe County Department of Social Services on the adult care web site for Buncombe County. The web site (www.buncombe.org/ach/) features consumer information on the 104 adult care homes located in Buncombe County.

The Commission believes that a valid and reliable assessment tool will enable consumers to determine which adult care homes best suit their needs. Therefore, the Commission recommends that the General Assembly direct the Department of Health and Human Services, to develop an instrument for assessing the quality of care provided by adult care homes.

Recommendation 14

The Commission recommends the General Assembly amend G.S. 105-129.16B to allow a pass-through entity to allocate a housing tax credit to any of its owners at the discretion of the pass-through entity.

Background

On August 8, the Commission heard from the Committee on Independent Housing with Services and the North Carolina Housing Finance Agency. On September 26, the Commission heard from the Director of Rental Investment, Housing Finance Agency. Since many of North Carolina's low-income citizens are older adults, the Commission is interested in increasing the availability of low-income housing.

S.L. 1999-360 created a new tax credit for rehabilitating or constructing low-income housing effective for buildings allocated federal credits on or after January 1, 2000. S.L. 2000-56

modified the credit to make more housing eligible. The credit expires for buildings allocated federal credits on or after January 1, 2006. The credit is equal to a percentage of the amount of the taxpayer's federal credit for low-income housing with respect to eligible North Carolina low-income housing. The credit is 75% for buildings located in a tier one or two area or in a county that sustained severe or moderate damage from a hurricane in 1999 and 25% for buildings located in other tiers. North Carolina low-income housing is eligible if it meets one of the following conditions:

- It is located in a tier one or two enterprise area.
- It is located in one of twenty-six counties that sustained severe or moderate damage from a hurricane in 1999.
- It is located in a tier three or four enterprise area and has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 50% or less of median gross income.
- It is located in a tier five enterprise area and has at least 40% of its residential units that are rent-restricted and are occupied by individuals whose income is 35% or less of area median gross income.

The credit is not taken in one year but is spread out over five years beginning when the federal credit is first claimed for the building. The federal credit is first claimed either when the building is placed in service, or the next year, at the taxpayer's election. The federal credit is taken over eleven years and requires that the low-income housing be used for that purpose for at least 30 years. If this requirement is not met, all or part of the taxpayer's credit is recaptured. Under the

State credit, if federal recapture is required, the taxpayer forfeits the North Carolina credit to the same extent. In addition, if the taxpayer no longer qualifies for the federal credit during one of the five years a State installment could otherwise be claimed, the taxpayer is no longer eligible for State credit. This situation could occur if the taxpayer sold its interest in the low-income housing.

Under federal law, a limited amount of credit is allowed to each state each year, and these credits are allocated among applicants based on selection criteria designed to reward projects that will serve the lowest income tenants for the longest periods. At least 10% of the credits each year must be set aside for projects sponsored by nonprofits. The amount of federal credit allocated to North Carolina will be $9.2 million for the 2000 through 2002 tax years and is expected to

increase to $13 million for the 2003 and 2004 tax years. By limiting the State credit to a percentage of the federal credit, the act automatically caps the potential revenue loss to the State.

In an effort to encourage the development of low-income housing, the Commission recommends that the General Assembly amend G.S. 105-129.16B to allow a pass-through entity to allocate a housing tax credit to any of its owners at the discretion of the pass-through entity.

APPENDICES

*** This information is not available electronically. This report is available in its entirety at the Legislative Libraries - Legislative Building - Rooms 2126, 2226, (919) 733-7778; or, Legislative Office Building - Room 500 (919) 733-9390.**