NORTH CAROLINA

STUDY COMMISSION ON AGING

REPORT TO THE
GOVERNOR AND THE 2006 REGULAR SESSION OF THE
2005 GENERAL ASSEMBLY

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North Carolina
Study Commission On Aging

May 3, 2006

To: Governor Michael Easley
Lieutenant Governor, Beverly Perdue, President of the North Carolina Senate
Senator Marc Basnight, President Pro Tempore of the North Carolina Senate
Representative Jim Black, Speaker of the North Carolina House of Representatives
Members of the 2006 Regular Session of the 2005 General Assembly

Attached is a report from the North Carolina Study Commission on Aging submitted to you pursuant to N.C. GEN. STAT. § 120-187. The North Carolina Study Commission on Aging presents to you findings and recommendations based on study conducted after the adjournment of the 2005 Regular Session of the 2005 General Assembly. Proposed legislation is contained within this report.

Respectfully submitted,

Senator Charlie S. Dannelly
Co-Chair

Representative Beverly M. Earle
Co-Chair

North Carolina Study Commission On Aging

2005-2006 Membership List

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Senator Stan W. Bingham

Senator Julia Boseman

Senator Vernon Malone

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Ms. Linda Howard

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TABLE OF CONTENTS

2005-SHz-12: AN ACT TO EXPAND THE HEALTH CARE PERSONNEL REGISTRY BY AMENDING THE DEFINITIONS OF HEALTH CARE FACILITIES AND HEALTH CARE PERSONNEL, TO PROHIBIT THE EMPLOYMENT BY HEALTH CARE FACILITIES OF ANY PERSON WHO HAS A SUBSTANTIATED FINDING ON THE HEALTH CARE PERSONNEL REGISTRY, AND TO APPROPRIATE FUNDS TO THE DIVISION OF FACILITY SERVICES FOR STAFFING, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-SHz-13: AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAL ASSISTANCE, TO EVALUATE THE USE OF TELEMONITORING EQUIPMENT, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-SHz-15: AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH TEN ADDITIONAL LONG-TERM CARE OMBUDSMAN POSITIONS, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-SHz-10: AN ACT TO ESTABLISH THE NORTH CAROLINA NEW ORGANIZATIONAL VISION AWARD SPECIAL LICENSURE DESIGNATION, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

2005-RDz-13: AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA HOUSING TRUST FUND, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

2005-SQz-11: AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF FACILITY SERVICES, TO POST THE FINES AND PENALTIES ASSESSED TO LONG-TERM CARE FACILITIES, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-SQz-10: AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REVIEW THE CAP/DA PROGRAM IN RESPONSE TO ISSUES IDENTIFIED IN THE MEDICAID INSTITUTIONAL BIAS STUDY, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-SQz-9: AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO COLLABORATE WITH PROVIDERS AND ADVOCATES OF HOME AND COMMUNITY BASED SERVICES TO REVIEW AND MAKE RECOMMENDATIONS ADDRESSING BIASES IDENTIFIED IN THE NORTH CAROLINA INSTITUTIONAL BIAS STUDY REPORT, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

2005-RDz-14: AN ACT TO APPROPRIATE ADDITIONAL FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF AGING AND ADULT SERVICES FOR THE HOME AND COMMUNITY CARE BLOCK GRANT (HCCBG), AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

PREFACE

Chapter 120, Article 21, of the North Carolina General Statutes, charges the North Carolina Study Commission on Aging with studying and evaluating the existing system of delivery of State services to older adults and recommending an improved system of delivery to meet the present and future needs of older adults. The Commission consists of 17 members. Of these 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 the Secretary's designee serves as an ex officio, non-voting member.

This report represents the work of the North Carolina Study Commission on Aging during the 2005-2006 interim. The Study Commission on Aging met on eleven occasions to study a variety of topics including: Medicare Prescription Drug Coverage, Adult Day Services, Expansion of the Health Care Personnel Registry, NC New Organizational Vision Award, Housing for Older Adults, the Medicaid Institutional Bias Report, Federal Funding for Training in Geriatrics, Criminal Background Checks in Long-Term Care, an Overview of Fines and Penalties in Long-Term Care Facilities, Long-Term Care Ombudsman, and the Community Alternatives Program for Disabled Adults (CAP/DA). During the course of its study, the Commission heard from associations and organizations representing older adults, toured a combination (social/health) adult day care center, and conducted public hearings in Williamston and Spindale.

EXECUTIVE SUMMARY

The North Carolina Study Commission on Aging met eleven times and conducted two public hearings during the 2005-2006 interim. In response to the study and evaluation of services to older adults, the North Carolina Study Commission on Aging makes the following recommendations to the Governor and the 2006 Session of the 2005 General Assembly:

Recommendation 1: Increase Adult Day Care Reimbursement Rates

The Study Commission on Aging recommends that the General Assembly appropriate funds to the Adult Day Care Fund and to the Home and Community Care Block Grant for a $5.00 per day rate increase for adult day care and adult day health care.

Recommendation 2: Increase CAP Awareness of Adult Day Health Options and Update

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Aging and Adult Services, and the Division of Medical Assistance, to provide education, and training if necessary, to ensure that case managers with the Community Alternatives Program (CAP) are aware of Adult Day Health Services and that this option is being considered in all situations appropriate for the client. The Department shall report by July 30, 2006, to the Study Commission on Aging on these efforts, and shall also provide a status report on changes implemented as a result of the Adult Day Services Study.

Recommendation 3: Health Care Personnel Registry

The Study Commission on Aging recommends that the General Assembly enact legislation and appropriate funding for staff support to expand the Health Care Personnel Registry to include unlicensed staff that have access to residents or clients and or their property and are employed in health care facilities as defined in G.S. 131E-256; and expand the definition of health care facilities to include all MH/DD/SAS day treatment programs, agencies and/or community service providers as defined in 10A NCAC 27G.0602(10)(b), which includes unlicensed MH/DD/SAS community based services providers and multiunit assisted housing with services as defined in G.S. 131D-2(7a); and prohibit health care facilities defined under G.S. 131E-256 from hiring any person who has a substantiated finding on the Health Care Personnel Registry.

Recommendation 4: Telemonitoring Evaluation

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Medical Assistance, to evaluate the use of telemonitoring equipment as a tool to improve the health of home-based individuals through increased monitoring and responsiveness resulting in increased stabilization rates and decreased hospitalization rates, the evaluation must include a representative number of older adults. The Department shall report to the Commission on the cost effectiveness of telemonitoring and the benefits to individuals and healthcare providers by August 1, 2007.

Recommendation 5: LTC Ombudsman

The Study Commission on Aging recommends that the General Assembly appropriate funding for 10 Long Term Care Ombudsman positions and related travel expenses.

Recommendation 6: NC NOVA Special Licensure Designation

The Study Commission on Aging recommends that the General Assembly enact legislation implementing the North Carolina New Organizational Vision Award (NC NOVA) Special Licensure Designation in which long-term care providers may participate on a voluntary basis in an effort to improve recruitment, retention, development, and job satisfaction of the direct care workforce, and improve the care provided to long-term care clients, residents, and patients.

Recommendation 7: Housing

The Study Commission on Aging recommends that the General Assembly appropriate an additional $10 million dollars for the Housing Trust Fund with $4 million of the total amount going to the Urgent Repair Program to provide grants for emergency home repairs for elderly homeowners and other homeowners with special needs.

Recommendation 8: Posting of Fines and Penalties for LTC Facilities

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Facility Services to post by October 15, 2006, the substantiated infractions, fines, and penalties assessed to long-term care facilities.

Recommendation 9: LTC Insurance Tax Credit

The Study Commission on Aging recommends that the General Assembly enact House Bill 118 or Senate Bill 37 Reenact Long-Term Care Insurance Tax Credit.

Recommendation 10: Medicaid Institutional Bias – CAP/DA Slots

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services to review the CAP/DA program including slot distribution and re-distribution to ensure that the CAP/DA waiting list is managed as efficiently as possible, identification and alleviation of identified biases, implementation of a uniform screening/assessment tool, and other strategies to ensure maximum operational efficiency and effectiveness for those individuals qualifying for CAP/DA services, and to make an interim report to the Study Commission on Aging by August 30, 2006 and a final report by August 30, 2007.

Recommendation 11: Medicaid Institutional Bias – Recommendations to Address Biases

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services to work with providers and advocates of home and community based services to review the North Carolina Institutional Bias Study Report prepared by The Lewin Group and to make recommendations on ways to address the biases identified in the report and to report to the Study Commission on Aging by October 15, 2006.

Recommendation 12: Additional Funds for Home and Community Care Block Grant

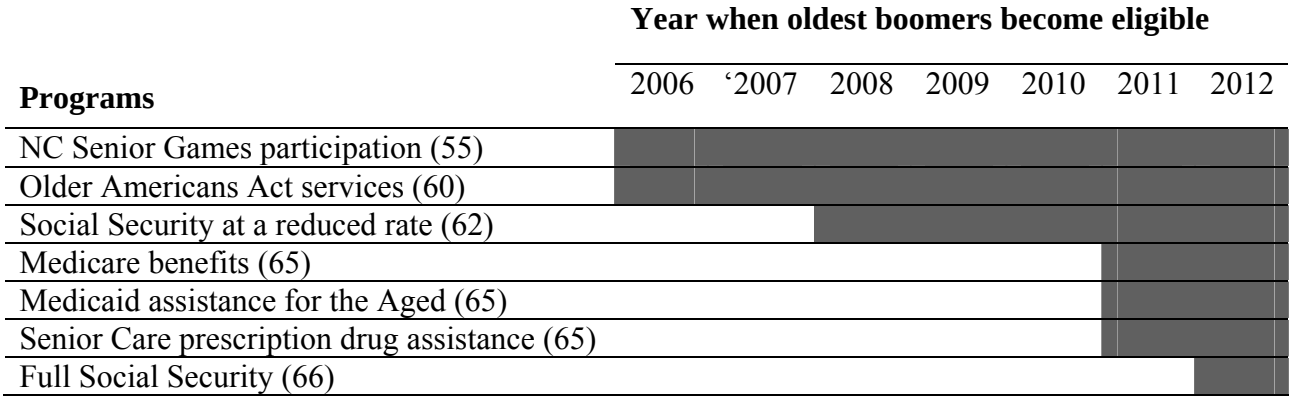
The Study Commission on Aging recommends that the General Assembly appropriate an additional $5 million in funding for the Home and Community Care Block Grant (HCCBG).

Aging North Carolina:
The 2006 Profile

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

North Carolina's Demographic Shift: North Carolina is in the midst of a significant demographic change as the state's 2.3 million baby boomers (those born between 1946 and 1964) enter retirement age in this decade. Today, the proportion of the seniors is roughly 12% of the State's total population. By 2030, when the youngest baby boomers are 65, the proportion should reach almost 18% or 2.2 million older North Carolinians age 65+ including the baby boomers who will be between ages 65 and 83. The figure below show the milestones of the baby boomers expressed in terms of some major federal and state age-related programs (eligibility age in parenthesis). For example, this year, the oldest baby boomers (i.e., born in 1946) become eligible to receive services under the Older Americans Act.

Baby Boomer Milestones



The impact of the aging baby boomers is clearly indicated in the projected growth of North Carolinians age 65+ between 2000 and 2030 as shown in Figure A. [1]

Figure B shows the projected growth of the older population by county between 2000 and 2030. The counties with rapidly increasing numbers of older adults are clustered along the coast and in two major metropolitan areas (i.e., Charlotte and Triangle). The projected growth rate for the state's total population is 227.9%.

Another major factor in the State's aging is migration. As shown in Figure C, North Carolina ranked third nationally with a net migration number of 34,290 among older adults (60+) in the five-year period between 1995 and 2000. Along with other Sunbelt states (Florida, South Carolina, Texas, Tennessee, Georgia, and Virginia) North Carolina remains a popular destination for people of all ages, including seniors. [2] The latest data estimates that 11,250 older adults (60+) relocated to North Carolina from other states and abroad in just one year between 2003 and 2004. [3]

The increasing life expectancy in later years also contributes to the growth of the older population. According to the latest estimate from the NC State Center for Health Statistics, babies born today in North Carolina are expected to live, on average, to the age of 75.6 years. The North Carolinians who are age 60 today are expected to live, on average, an additional 20.8 years to almost 81 years old. Generally, women live longer than men and whites live longer than persons of minority race. However, at the oldest ages, minorities have a life expectancy that is

the same or slightly greater than that of whites. This is known as the "crossover effect." [4]

Life Expectancies (Years) by Age Group, Gender, and Race

Age Groups	NC Combined	White		Minority	
		Male	Female	Male	Female
(At Birth)	75.6	73.8	79.6	68.0	75.8
60-65	20.8	19.0	22.9	16.8	21.5
65-69	17.1	15.4	18.9	13.8	17.8
70-74	13.7	12.2	15.1	11.1	14.5
75-79	10.6	9.3	11.6	8.8	11.4
80-84	7.9	6.8	8.5	6.7	8.6
85+	5.4	4.5	5.7	4.8	6.0

Source: NC Center for Health Statistics (2002). *Healthy Life Expectancy in North Carolina, 1996-2000*

There are other important factors influencing the diverse experiences in demographic shifts among the State's 100 counties including [5]:

- Rural-to-urban migration of young adults continues to age rural counties.
- Large metropolitan counties attract large numbers of persons from outside the State as well as from rural counties.
- The large metropolitan counties are experiencing greater growth among younger adults than they are among older adults.
- A large number of older adults with higher incomes are retiring in some western and coastal counties.

What Are the Implications of This Shift? The aging of the population is a national and international trend, and North Carolina, like the rest of the world, must be prepared to reap the benefits and face the challenges of an older population. Government faces decisions about the allocation of public resources from a tax base that may experience slowed growth, especially in many aging rural counties. People must consider living and caregiving arrangements in light of smaller nuclear and extended families. The health, human service, employment, and education systems must adapt to the changing needs and interests of the seniors of today and tomorrow. The business, faith communities, and others must identify and respond to the challenges and opportunities of these demographic shifts.

In the 2003-2007 State Aging Plan, the NC Division of Aging and Adult Services introduced a new initiative–Livable and Senior-Friendly Communities–to raise awareness of the aging of our population and to promote the North Carolina communities becoming senior-friendly as well as livable for all people through collaboration among citizens, agencies, organizations, and programs, in both the public and private arenas. A livable and senior-friendly community in

North Carolina will draw on the talents and resources of active seniors while enhancing services for those who are vulnerable because of their health, economic hardships, social isolation, or other conditions. A livable and senior-friendly community will work to address a wide range of issues and concerns (e.g., air quality, housing, long-term care services, employment, enrichment opportunities) that, as a whole, affect the quality of life of seniors and others in the community. Also, a livable and senior-friendly community will assure stewardship of its resources to meet the needs of today's seniors, while helping baby boomers and younger generations prepare for the future.

Demographic Highlights

***Population*:** North Carolina ranks tenth among states in the number of persons age 65 and older and eleventh in the size of the entire population. [6] The fast pace of growth of the State's older population is evident in a US Census Bureau's release in which North Carolina was ranked fourth nationally in the increase of the number of older persons age 65+ (47,198 in NC) between April 2000 to July 2003. Only three other states (California, Texas, and Florida) reported a greater increase among their older populations. Even so, when combined with the equally strong growth in other age groups, North Carolina continues to maintain an overall healthy demographic balance among the generations.

- Estimated NC population age 65+ in 2006: 1,050,849 (12.0% of total population)
- Estimated NC population age 85+ in 2006: 131,612 (1.5% of the total population)

Diversity and Disparity: North Carolina is rich in diversity, but its citizens face challenges because of the disparity that exists among all populations, including older adults. Some important differences among NC's older adults relate to gender, marital status, race/ethnicity, residence, rurality, disability, health status, and veteran status.

1. Gender: Older women represent 58.8% of the 65+ age group and 71.2% of the 85+ age group. [1] The higher rate of poverty among older women remains a primary issue today. For example, women age 75+ are twice as likely to be poor as men the same age. [7]

- Marital Status: At age 65 and older, women are more than twice as likely to be unmarried as men in their age group. [8] Data show that being unmarried (widowed, divorced, separated, or never married) increases a woman's vulnerability to poverty. According to the Social Security Administration, 50% of unmarried women rely on Social Security for 80% of their income and 25% rely on Social Security as their sole source of income. [9]

Marital Status by Age Group

	Age 65-74	Age 75-84	Age 85+
Unmarried Women in NC	45.4%	65.8%	76.5%
Unmarried Men in NC	18.7%	25.2%	39.4%

Source: NC Division of Aging and Adult Services (2003). *The 2003-2007 North Carolina Aging Services Plan.*

- Ethnicity/Race: Altogether 18.5% of persons age 65+ are members of ethnic minority groups in North Carolina. [10] Compared to the nation as a whole, North Carolina's

population age 65+ includes a larger proportion who are African American (15.7% in NC to 8.2% nationally) and a smaller proportion of Latinos (1.0% in NC to 6.0% nationally). American Indians, Asian Americans, and other ethnic groups account for 1.9% of the age group 65+. The statistics for African American and other older adults who are minority group members, in North Carolina as well as nationally, show both a higher poverty rate and a lower life expectancy when compared with the white population. [Note: See the Demographic Shift section for the information on life expectancy.]

Below Poverty Status by Gender, Race, and Age Groups

	White		African American	
	Male	Female	Male	Female
Age Group 65 - 74	4.5%	8.2%	14.8%	24.0%
Age Group 75+	4.6%	17.3%	17.2%	33.8%

- Residence: In North Carolina, 23.8% of all homeowners are age 65+, yet among older homeowners, over 61,000 reported incomes for 1999 that were below poverty. [9] This figure represented 38% of the homeowners of all ages with income below poverty and exceeded the national average of 32.7%. Among renters age 65+ who provided information, 53%, or almost 48,000, spent more than 30% of their household income on rent. Furthermore, 5,000 North Carolina homeowners and renters age 65+ lacked complete plumbing facilities in their homes. [11]

- Rurality: Although the Bureau of the Census has not released figures specifically for the older population residing in rural areas, it is expected to easily exceed 39.8%, the rate for the total population. [12] In 2000, North Carolina's rural population (3,199,831) was almost as large as the one in Texas (3,647,539), the state with the largest number of rural residents in the nation. Not only was North Carolina's rural population among the largest in terms of numbers, but the state also reported the highest proportion (39.8%) of rural population among the 20 most populous states in the nation. While 11 other states reported higher proportions of rural population, ranging from 40.7% to 61.8%, all of these states are much smaller in total population than North Carolina. Thus, North Carolina is unique among more populous states in having so large a rural contingency. A 2002 report highlights a long list of challenges the rural residents and their communities face—isolation by distance, lagging infrastructure, sparse resources that cannot adequately support education and other public services, and weak economic competitiveness. [13]

- Disability: In North Carolina, 44.0% of the non-institutionalized civilian population age 65+ reported having one or more disablities—46.7% of women and 40.4% of men, according to the 2004 American Community Survey. [14] The Census defines disability as "a long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business."

- Health Status: Heart disease is the leading cause of death among older adults both nationwide and in North Carolina with cancer and stroke, second and third on the list. [15] In particular, the coastal plains region of North Carolina has the fourth highest stroke death

rate in the nation and is labeled by some as the Buckle of the Stroke Belt. African Americans and other racial minorities are at substantially higher risk for certain chronic conditions such as heart disease, stroke, and diabetes (a major contributor to heart disease, stroke and other conditions). [4]

Five Leading Causes of Death among North Carolinians Age 65+

Rank	Cause
1	Heart diseases
2	Cancer
3	Cerebrovascular diseases including stroke
4	Chronic lower respiratory diseases
5	Alzheimer's disease

Source: NC Center for Health Statistics (2006). *Leading Causes of Death – 2004.*

Physical inactivity is known to increase a person's risk of heart disease, diabetes, and other chronic conditions. North Carolinians age 65+ are ranked third from the bottom at 40% in terms of the proportion of older population that participate in physical activities. [16]

In a statewide survey, over one third of people age 65+ say that their general health status is fair or poor. In the same survey, 17.6% of older African Americans said that there was a time they could not see a doctor due to medical cost. [17]

- Grand Parents: In NC, 79,810 grandparents report they are responsible for their grandchildren living with them: 47% of these grandparents are African American; 2% are Hispanic/Latino; 2% are American Indian or Alaskan Native; and 47% are White. 43% of these grandparents live in households without the children's parents present. [18]

- Veteran Status: Of the 779,393 veterans living in NC, 263,102, or 34%, were age 65 and older in 2000. Another 34% were Vietnam-era veterans (between 43 and 57 years old in 2000). The population of veterans of the Vietnam-era contains proportionally more disabled members than the veterans' populations of earlier wars. [19] The Veterans Administration cites the aging of the veterans as a major challenge to its health care system in coming years. [20]

Figure A: Growth of Older North Carolinians Age 65+ (2000-2030)

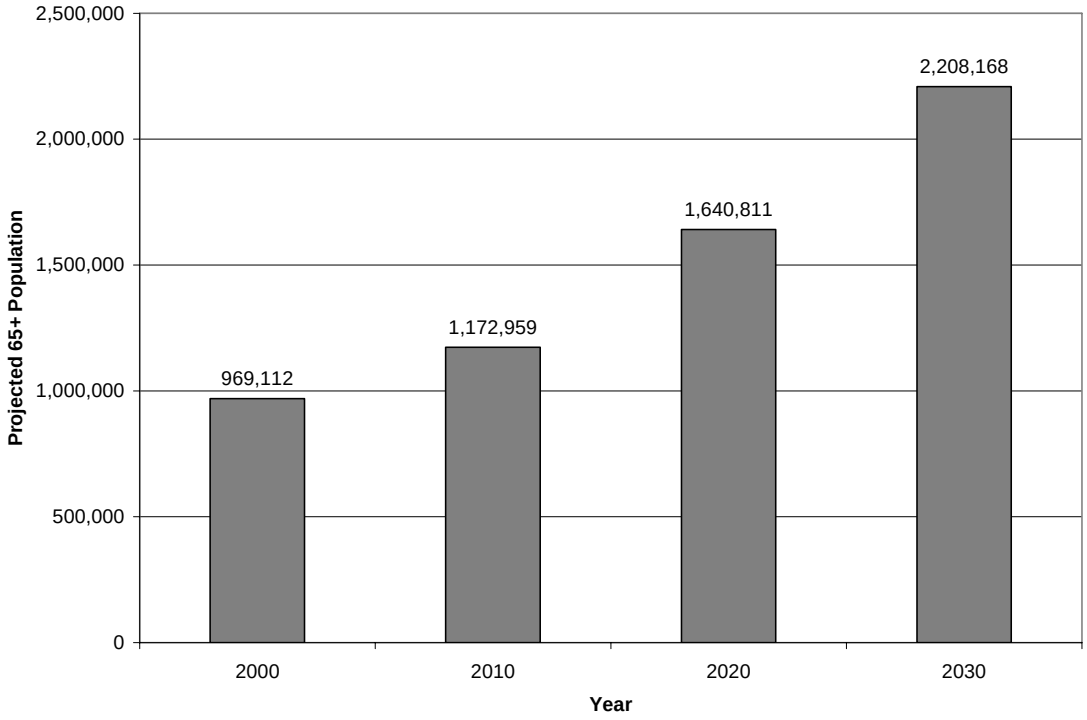
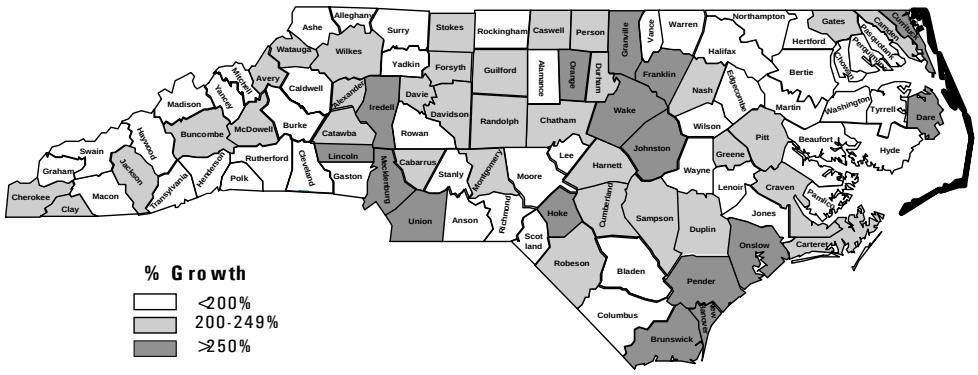
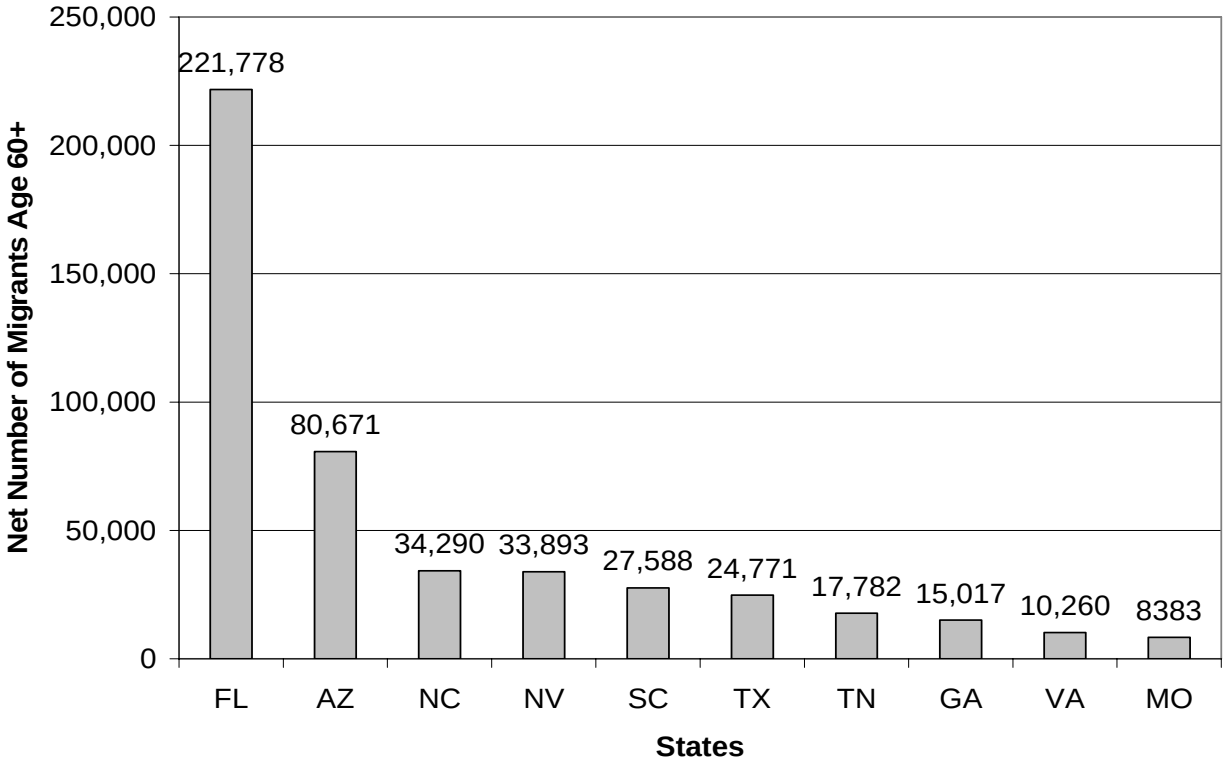


Figure B: Projected Growth* of Older Population Age 65+ by County (2000-2030)



*Population projection data available from the NC State Data Center

Figure C: Top Ten States with Net Number of Migrants Age 60+ (1995-2000)



Sources of Information

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[2] Charles Longino (2003). *States Ranked by the Net Number of Migrants Age 60+, 1985-1990 and 1995-2000.*
[3] US Census Bureau (2006). *2004 American Community Survey B07001.*
[4]NC Center for Health Statistics (2002). *Healthy Life Expectancy in North Carolina, 1996-2000.*
[5]NC Division of Aging and Adult Services (2003). *The Aging of North Carolina: The 2003-2007 North Carolina Aging Services Plan.*
[6] US Administration on Aging (2006). *Population for States by Age Group: July 1, 2004.*
[7] Institute for Research on Women & Gender (2002). *Difficult Dialogues Program Consensus Report: Aging in the Twenty-first Century.*
[8] US Census Bureau (2002). *Census 2000 PCT 7 (Summary File 3).*
[9]US Social Security Administration (1998). *Fast Facts & Figures about Social Security*.
[10]US Administration on Aging (2006*). Number of Persons 65+ by Race and Hispanic Origin-by State-2004.*
[11]NC State Library (2003). Special tabulation from the Census 2000 data as requested by the NC Division of Aging and Adult Services.
[12]US Census Bureau (2003). *Census 2000 P2 (Summary File 1).*
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[14]US Census Bureau (2006). *2004 American Community Survey B18001.*
[15]NC Center for Health Statistics (2003). *Leading Causes of Death-2002.*
[16]NGA Center for Best Practices (2004). *Measuring the Years: State Aging Trends & Indicators.*
[17] NC Department of Health and Human Services (2003). *Behavioral Risk Factor Surveillance Calendar Year 2004 Results.*
[18] AARP (2006). *A State Fact Sheet for Grandparents and Other Relatives Raising Children.*
[19]US Department of Veterans' Affairs (2002). *VA History in Brief.*
[20]US Department of Veterans' Affairs (2002). *Data on the Socioeconomic Status of Veterans and on VA Program Usage.*

Pertinent Web Sites for Related Information

- NC Division of Aging and Adult Services (http://www.dhhs.state.nc.us/aging/demo.htm)
- NC State Data Center (http://demog.state.nc.us/)
- NC State Center for Health Statistics (http://www.schs.state.nc.us/SCHS/)
- US Census Bureau (http://www.census.gov)

COMMISSION PROCEEDINGS

November 2, 2005

The North Carolina Study Commission on Aging held its first meeting on November 2, 2005 at 10:00 a.m. in Room 643 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. At this meeting, the Commission heard several reports and updates concerning ongoing programs.

Commission Staff, Theresa Matula, presented an overview of the Commission's responsibilities and the proposed budget. She gave a brief overview of future meetings and issues the Commission plans to address. Next, Shawn Parker, Commission Staff, presented a Status of 2005 Study Commission Recommendations and Brief Overview of 2005 Legislation Related to Aging. (Appendix A.) This represented action on recommendations from the 2005 Study Commission. Ms. Matula, concluded the staff presentation by going over the Summary of Substantive Legislation Related to Aging. (Appendix A.)

Following the legislative update, the Commission heard from Carla Obiol, Senior Health Insurance Information Program (SHIIP), Department of Insurance on Medicare Part D: Prescription Drug Plan Benefit. Ms. Obiol explained the initial enrollment for the Medicare Prescription Drug plan began on November 15, 2005 and would end May 15, 2006. Individuals enrolling before December 31, 2005, would receive coverage beginning on January 1, 2006. Eligible individuals enrolling after May 15, 2006 may incur a 1% per month penalty for every month of delayed enrollment. At this time, North Carolina has 16 approved companies who will offer a total 38 PDP plans. Ten of these plans will offer national coverage, which is especially important for beneficiaries who have residences in more that one state. Medicare beneficiaries can have enrollment assistance through the SHIIP program by calling 1-800-443-9354. Some counties are offering workshops to inform citizens of the new program. This program is for all people who are eligible for Medicare Part A and Part B.

Next, Jerry Boylan, North Carolina Senior Care presented to the commission the transition from the Senior Care Program to the Medicare Part D: Prescription Drug Plan Benefit Program. All transitional assistance programs end December 31, 2005. Funds from CMS grants received to transition to Part D are supporting SHIIP, call center personnel and train the trainer workshops across the state. Four to five hundred pharmacists are training across the state. Local counties are coordinating sites to provide face-to-face assistance during the transition of 2006, and they are there to clear up confusion about choices and the process. The state is now focused on how to help our Senior Care enrollees make an informed decision on how to best choose their prescription drug coverage under Medicare Part D.

The final topic of this meeting was an update on the Medication Assistance Program. Ms. Vandana Shah, Policy Director, Health and Wellness Trust Fund presented to the commission an update on the Medication Assistance Program (MAP). This program offers 69 grants (68 community-based grants and 1 statewide grant) funded by the North Carolina Health and Wellness Trust Fund to assist low-income citizens in obtaining prescription drugs and counsel seniors about drug safety and effectiveness. MAP has granted sites with over $48,486,232.82 worth of free medications to 39,886 patients from January 2003 through August 2005 and they have also received medication management services.

November 16, 2005

The North Carolina Study Commission on Aging met on November 16, 2005 at 10:00 a.m. in Room 643 of the Legislative Office Building. Senator Dannelly was the presiding Co-Chair. The members received Medicare Part D information that served as a follow-up to a presentation during the prior meeting. In response to a motion at the prior meeting, the Commission approved a letter to the North Carolina Congressional delegation regarding their concerns about Medicare Part D. Due to the characteristics of North Carolina's older adult population and because the consequence of inaction results in a penalty, in the letter the Commission requested the following changes:

1. Extend the open enrollment period to give eligible individuals one full year to sign up, effectively allowing individuals until November 15, 2006, to purchase a prescription drug policy without penalty. This change will allow, at particular time intervals, the identification of individuals that may need additional assistance or resources.

2. Phase in the penalty rate, so that the rate increases as the distance from the individual's enrollment cut-off date increases (i.e. .50% of the average monthly premium for each of the first 6 months past the enrollment deadline, .75% of the average monthly premium per month for months 7-12 post deadline.) The Commission believes that the penalties would result in a permanent rate increase for the very people who need the service the most and strongly opposes the possibility of penalties that could exceed one percent per month.

3. By a specified date, require CMS to verify from a specified percentage of the eligible population: an affirmative enrollment in a plan, or a response from an eligible individual declining enrollment. This will help to ensure that individuals did receive the information and did make a conscious determination of their options.

A copy of the letter is contained in Appendix B.

The Commission also heard brief remarks by associations and organizations that represent older adults in North Carolina. The Appendices contain a summary of the presentations by these organizations. (Appendix C.)

December 20, 2005

The North Carolina Study Commission on Aging met on Tuesday, December 20, 2005 at 10:00 a.m. in room 415 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. At this meeting, the Commission heard presentations on the White House Conference on Aging Report, an overview of aging services in North Carolina, State funding for services and programs for older adults, a report on a pilot project for local long-term care coordination, and the impact of Medicare Part D on CAP/DA.

Theresa Matula, Commission Staff, provided an overview of legislative priorities and issues of concern for organizations representing older adults given the Commission at its November 16 meeting. Ms. Matula presented all issues raised, identifying the following as the most frequently cited:

- Access to National Criminal Record Checks.
- Restoration of the LTC Insurance Tax Credit.
- Support for and/or Restoration of Funding for the Home and Community Care Block Grant (HCCBG).

- Support for and/or Restoration of Funding for Senior Centers.
- Maintaining the Viability of the Community Alternatives Program for Disabled Adults (CAP/DA).

Karen Gottovi from the Department of Health and Human Services, Division of Aging and Adult Services briefed the Commission members on the contents of the White House Conference on Aging Report. Dennis Streets, also of the Division of Aging and Adult Services provided the Commission with an overview of Aging Services in North Carolina.

Andrea Russo, Commission Staff, presented the Commission with detail on current State funding for services and programs for older adults in the State.

Steve Friedman, of the Division of Aging and Adult Services presented a report on the Pilot Project of Local Long-Term Care Coordination (S.L. 2003-284, Sec. 10.8F). Mecklenburg and New Hanover Counties took part in the pilot project, which is intended to give counties the structure and technical assistance needed to develop and implement a local long term care planning process. Dr. Mary Ann Salmon of the UNC School of Social Work also spoke on the experiences of the pilot project to date.

Tracy Colvard, from the Department of Health and Human Services, Division of Medical Assistance, Community Alternatives Program for Disabled Adults (CAP/DA) program presented the Commission with information about the anticipated impact of the new Medicare Part D program on CAP/DA recipients. One major shift identified is that individuals who have been qualifying for Medicaid coverage (and CAP/DA) by meeting their Medicaid deductible due to prescription drug expenses incurred on the first day of the month will no longer be able to used prescription drug costs as a basis for qualifying for Medicaid (and receipt of CAP/DA services). Medicare Part D will now provide these individuals with prescription drug coverage and so they will need to incur other expenses to meet the Medicaid deductible that will make them eligible for CAP/DA coverage. Approximately 645 (5.7%) of the total 11,300 CAP/DA recipients will be affected by this shift.

January 4, 2006

The North Carolina Study Commission on Aging met on Wednesday, January 4, 2006 at 10:00 a.m. in room 643 of the Legislative Office Building. Senator Dannelly was the presiding Co-Chair. At this meeting, the Commission heard presentations on a Medicaid institutional bias study, adult day care services and choices and creativity in delivering home based care to the elderly.

Mr. Larry Nason of the Facility and Community Care Section of the NC Department of Health and Human Services, Division of Medical Assistance gave a brief overview of the Medicaid Institutional Bias Study. The 2003-2004 North Carolina General Assembly mandated a study of Medicaid institutional bias (S.L. 2004-124, Sec. 10.3) for the purpose of identifying any bias that favors support for individuals in institutional settings over support for individuals living at home.

Ms. Lisa Alecxih, Vice President of The Lewin Group and manager for this project then presented the results of the study to the Commission. The study focused on Medicaid Long Term Care programs for older adults and adults with physical disabilities and did not include individuals with MRDD. Ms. Alecxih reported on the breakdown of expenditures and recipients of North Carolina Medicaid long-term care expenditures for older adults and people with physical disabilities before itemizing the biases found during the study.

The study looked at four major areas in terms of Medicaid: benefits; availability and accessibility; cost containment; and provider regulation and oversight of quality review. The

report identified ten instances of bias and provided recommended actions to rectify them.

Ms. Shannon Crane with the Department of Health and Human Services, Division of Aging and Adult Services, told Commission members that Adult Day Care is a provision of services during the day for older adults who cannot live independently at home. The goal is to prevent institutionalization. Two models of adult day care exist – a social model for people who cannot remain independent at home and don't have health problems (such as Dementia or Alzheimer's); and a health model that involves having a nurse onsite for a minimum of four hours per day. North Carolina currently has 50 adult day care programs with the social model, 54 combination programs and 3 adult day health only programs, for a total of 107 adult day care programs in 58 counties.

Ms. Crane stated that the legislature approved a $5 rate increase in adult day care raising the rate from $23.07 to $28.07 per day for the social model and from $30 to $35 per day for the health model but pointed out that reimbursement levels continue to be well below day care operating costs. She also noted that accessible and affordable transportation remains an issue, as does cost associated with compliance with new facility sprinkler systems requirements.

Ms. Nancy Cox, Director of Partners in Caregiving, The Adult Day Services Program at Wake Forest University School of Medicine, then presented the final report of the NC Adult Day Services Project. In response to recent adult care center closures (30 in North Carolina over a five year period), a special provision was included in the 2004 state budget bill for a national adult day services resource center to study the current method of reimbursement for adult day programs and provide training and consultation (S.L. 2004-124, Sec. 10.21). The Division of Aging and Adult Services contracted with Partners in Caregiving to carry out the study.

Ms. Florence Gray Soltys, Commission Member and Clinical Associate Professor at the UNC-Chapel Hill School of Social Work, was the last presenter. Ms. Soltys presented the Commission with detail relating to in-home care versus adult day care for the elderly and estimating a savings of approximately $100 per day if care is provided in an adult day care setting rather than in-home through CAP/DA services.

January 18, 2006

The North Carolina Study Commission on Aging met on January 18, 2006 at 10:00 a.m. in Room 643 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. During the meeting, the Commission heard presentations on adult care homes, the adult care home cost model, and a report on the expansion of the Health Care Personnel Registry.

Bob Fitzgerald, Director, Division of Facility Services, Department of Health and Human Services (DHHS), and Barbara Ryan, Chief, Adult Care Licensure Section, Division of Facility Services, DHHS made a presentation on the adult care licensure program. They provided the Commission with definitions and key points for the following: nursing homes, combination homes, multiunit housing, and adult care homes. They also provided an overview of issues related to adult care homes that were included in the 2005 budget bill, S.L. 2005-276 (SB 622).

According to data gathered from 2005 Licensure Renewal applications, the Division presented information indicating that there are 642 licensed adult care homes in North Carolina. Adult care homes have seven or more beds. The Division also provided a breakdown of the population by diagnosis in adult care homes which showed a total of 24,831 residents in adult care homes in North Carolina. Of this total, 15,243 are over the age of 75. For adult care home residents, the data indicated that 20.2% of the residents have been diagnosed with mental illness, 6.2% have a Mentally Retarded/Developmentally Delayed (MR/DD) diagnosis, and 32.6% of total residents

have an Alzheimer's or dementia diagnosis.

Data from the 2005 Licensure Renewal applications indicate that there are 699 family care homes. Family care homes may have from two to six beds. The Division also provided a breakdown of the population by diagnosis for the 2578 residents in family care homes.

Andrea Russo, Fiscal Analyst, provided information on the Adult Care Home Cost Model and a summary of funding requirements. Ms. Russo presented that the Adult Care Home Cost Modeling Committee formed in October 2002, and a final report was completed in December 2004. She reported that the purpose of the report was to "develop a consistent and defensible costing methodology that considers the full cost of operating Adult Care Home facilities to ensure that resident care needs are met." The report consisted of research, resident assessment and screening, cost model and recommendations which Ms. Russo reviewed with the Commission.

Finally, Jesse Goodman, Chief, Health Care Personnel Registry Section, Division of Facility Services, DHHS, provided a report in response to S.L. 2005-276, Section 10.40A(q). This provision required the Department of Health and Human Services to study whether there are any additional "health care facilities" and "health care personnel" that are employed in health care settings, and that should be contained in the Health Care Personnel Registry and listed in G.S. 131E-256. The report included an overview of the Health Care Personnel Registry Section which was created in 1996, and experienced and expansion of duties in 1999 and 1999. The Section has responsibility for reviewing and determining compliance of all nurse aide training and competency evaluation programs. The Section is also responsible for investigating allegations of resident abuse or neglect, misappropriation of resident or facility property, fraud against a resident or facility, and diversion of resident or facility drugs when these acts occur in nursing homes, hospitals, home care agencies, hospices, nursing pools, adult care homes, family care homes, state-operated hospitals, and residential facilities and hospitals for the mentally ill, developmentally disabled and substance abusers, by unlicensed assistive personnel (nurse aides) or unlicensed health care personnel (nurse aides, in-home aides, in-home personal care aides, adult care home personal care aides or their supervisors). The report indicates that information from the Nurse Aide Registry and the Health Care Personnel Registry is available to the general public and all health care providers at http://www.ncnar.org/ and at (919) 715-0562.

The report presents the following three recommendations:

- The Health Care Personnel Registry should be expanded to include all unlicensed staff of health care facilities, as defined in G.S. 131E-256, which have access to residents or clients and or their property.
- The Health Care Personnel Registry should be expanded to include the following health care facilities: Licensable facilities as defined in G.S. 122C-3(14)b which includes all MH/DD/SAS day treatment programs, agencies and/or community service providers as defined in 10 NCAC 27G.0602(10), which includes unlicensed MH/DD/SAS community based service providers and multiunit assisted housing with services as defined in G.S. 131D-2(7a).
- Health Care Facilities as defined in G.S. 131E-256(b) shall not employ any person who has a substantiated finding on the Health Care Personnel Registry.

February 1, 2006

The North Carolina Study Commission on Aging met on Wednesday, February 1, 2006, at 10:00 A.M. in Room 643 of the Legislative Office Building. Senator Charlie Dannelly was the

presiding Co-Chair.

Ms. Sherry Thomas, Senior Vice President of the Association for Home and Hospice Care of North Carolina was the first presenter. She presented on Personal Care Services (PCS) restructuring and PCS Physician Authorization for Certification and Treatment. Ms. Thomas told Commission members that PCS were restructured to benefit patients and ensure quality services. She also stated that controlled access with stricter criteria on the front end of the program was necessary so the program would be available only to those who really need it.

The following were new policy requirements for In-Home Personal Care Services as reported by Ms. Thomas:

- The patient must have two Activities of Daily Living (ADL) deficits that require hands on assistance to qualify for In-Home PCS and the need for PCS must be clearly linked to a patient's medical condition.
- The new assessment form is mandatory statewide (Attachment 2). The RN who conducts the assessment clearly states on the form why the patient needs the services and why the patient is eligible for services.
- Division of Medical Assistance (DMA) time guidance must be assigned to in-home aide tasks. For example, completely bathing a patient allows no more than 30 minutes.
- Home management tasks can not exceed the time budgeted for personal care.
- Prior approval is required for up to 20 hours of PCS/month under PCS Plus.
- 4 ADL impairments requiring extensive assistance or 3 ADL impairments and specified physical limitations may qualify for PCS Plus.
- Direct solicitation by the PCS provider agencies is prohibited.

Ms. Thomas also gave Commission members a brief presentation on a system that utilizes telecommunications to deliver healthcare services that are typically provided to patients in the home, such as vital sign monitoring, patient education, and assistance with following their care plans. Ms. Thomas reported, the data is collected and transmitted using the patient's home telephone line. Ms. Thomas also stated that the Association for Home & Hospice Care encourages the Commission to support legislation to implement telehomecare in North Carolina's Medicaid home health program.

Mr. Jackie Sheppard, Assistant Secretary for Long-Term Care and Family Services with the NC Department of Health and Human Services (DHHS) gave the next presentation. He furnished Commission members with a copy of the authorization directing DHHS to conduct a study of issues related to mentally ill individuals residing in long-term care facilities and a copy of the Final Report and Recommendations. The following were recommendations which were discussed in detail within the report.

- Expansion of mental health specialty teams to provide training and technical assistance to long term care facilities.
- Design and implementation of an automated screening, assessment and care planning system to be used prior to admission to long term care services.
- Conduct a study to inform the development of a residential continuum designed to meet the needs of persons with mental illness.
- Strengthen the training curriculum in all law enforcement training programs to improve law enforcement response in long term care settings.

- Further evaluation of a number of statutes and rules to provide appropriate guidance to long term care facility operators according to the needs and characteristics of residents served.

At the conclusion of his presentation, Mr. Sheppard introduced Ms. Emily Saunders with the Adult Care Licensure Section of the Division of Facility Services, Ms. Julie Budzinski with the Division of Medical Assistance and Ms. Bonnie Morrell with the Division of Mental Health to field questions from members.

February 15, 2006

The North Carolina Study Commission on Aging met on Wednesday, February 15, 2006 at 10:00 a.m. in room 643 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. At this meeting, the Commission heard presentations on the NC NOVA project, criminal record background checks for Long Term Care facilities, housing for older adults and pain management in older adults.

Susan Harmuth, NC NOVA Project Coordinator provided an overview of the project pilot testing sites' experiences and requested legislation to implement the project statewide in 2007. The NC New Organizational Vision Award (NC NOVA) project is intended to address high turnover rates for direct care workers in long term care facilities or agencies by awarding a special NC NOVA designation to those meeting uniform criteria.

Melynda Swindells and Kathy Shepherd of the Department of Health and Human Services Division of Child Development provided the Commission with an update of progress made in implementing criminal background checks for individuals applying to work in long term care settings as set forth by Senate Bill 41. Andrea Russo, Committee Staff, then presented the Committee with an overview of fiscal information relating to housing for older adults.

Dr. Laura Hanson, of the Division of Geriatrics at the UNC-Chapel Hill School of Medicine, presented the Commission with information relating to pain management in older adults. Dr. Hanson also described the anticipated shortage of qualified geriatricians and provided the Commission with details relating to funding of training and recent trends in reductions of Title VII federal funding for the training of geriatricians. The Commission requested staff to prepare a letter to be sent to the North Carolina delegation on their behalf requesting restoration of funding for the training of geriatricians. (Appendix E.)

February 21, 2006

The North Carolina Study Commission on Aging conducted the first of two public hearings this interim on February 21, 2006, at 10:30 at Martin Community College in Williamston. Senator Dannelly was the presiding Co-Chair. On behalf of the Commission, Senator Dannelly recognized Karen Gottovi and thanked her for her service as retiring director of the North Carolina Division of Aging and Adult Services. At this hearing, twenty-six (26) people spoke on a variety of issues of concern to seniors including, home and community based services, Senior Games, Medicare Part D prescription drug program, and long term care insurance tax credits. (See Appendix D for the Public Hearing Summary.)

February 28, 2006

The North Carolina Study Commission on Aging conducted the second public hearing this interim at 10:30 a.m. on February 28, 2006, in The Foundation Performing Arts and Conference Center at Isothermal Community College in Spindale. Representative Earle was the presiding

Co-Chair. At this hearing, seventeen (17) people spoke to Commission members about a number of concerns, including Senior Center funding, increasing funds for adult day and adult day health care programs, staffing levels and training for adult care homes, and support for Senior Games. (See Appendix D for the Public Hearing Summary.)

March 15, 2006

The North Carolina Study Commission on Aging met on Wednesday, March 15, 2006 at 10:00 a.m. in Room 643 of the Legislative Office Building. Senator Dannelly was the presiding Co-Chair. During this meeting the Commission received notice of letters received from adult day care participants and families, heard a summary of public hearing comments, discussed a draft letter on federal funding in geriatrics and gerontology, heard an update on Medicare Part D, received input from employers on criminal record background checks, and was presented an overview of fines and penalties in long-term care facilities.

The meeting began with presentations from staff to the Commission. Theresa Matula, Commission Staff, informed the Commission of letters received from participants and families expressing support for adult day care. Shawn Parker, Commission Staff, presented a summary of the comments from the public hearings conducted in Williamston on February 21, 2006 and in Spindale on February 28, 2006**.** The Appendices contains a copy of the public hearing summary, in Appendix D. The issues mentioned with the greatest frequency were: Support for Senior Games; Preserve and Expand the Home and Community Care Block Grant (HCCBG); Preserve and Expand Senior Center Funding; and Support for In-Home and Community-Based Services. Ben Popkin followed up on a February 15, 2006 presentation by Dr. Laura Hanson, by presenting a draft letter to the North Carolina Congressional Delegation regarding federal funding for geriatrics and gerontology.

Carol Shaw presented information on Medicare Part D including the impact of the Medicare Part D program on the NC Medicaid Program and how states are responding to supplementing Medicare Part D Coverage. Mike James with Person Street Pharmacy presented the Commission with information on the impact of Medicare Part D upon retail pharmacies. Bill Rustin, President of the Association of Community Pharmacists and Andy Ellen with the NC Retail Merchants Association followed with presentations.

Stacy Flannery, with the North Carolina Health Care Facilities Association, and Jerry Cooper, with the North Carolina Assisted Living Association, spoke to the Commission on the new process for criminal record background checks for long-term care. Ms. Flannery made a presentation to the Commission regarding criminal background checks in North Carolina's skilled nursing facilities, including the procedures under Public Law 105-277 for non-five year resident/direct care applicants, and under Senate Bill 41 for non-five year resident/direct access applicants. She also provided results from a survey of providers that indicated the following:

- A majority of providers that responded reported that very few or a minimal number of their applicants met the criteria for Senate Bill 41 process;
- Most respondents believe the process is efficient; most respondents agree they are notified of findings in a timely manner;
- Most respondents feel the DHHS CRU is responsive to questions/problems;
- A clear majority of respondents indicated that they do not commonly hire individuals with a finding on the national criminal history provided through the Senate Bill 41 process; and
- Most respondents prefer to make their own hiring decisions, indicating they would not

want the DHHS CRU to make a final determination of employability.

Jeff Horton, Chief Operating Officer, Division of Facility Services, Department of Health and Human Services (DHHS), provided information on fines and penalties in long-term care facilities. Barbara Ryan, Chief, Adult Licensure Section, Division of Facility Services, DHHS, answered questions on the Penalty Review Committee. The Commission received information on a synopsis of the January 2006 incident at a nursing and rehab center in the State, and received an overview of the federal enforcement process in nursing facilities. Members asked a number of questions on this issue including whether fines and penalties are posted in a place that is accessible to the public.

March 29, 2006

The North Carolina Study Commission on Aging met on Wednesday, March 29, 2006 at 10:00 in Room 643 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. During this meeting the Commission heard a presentation on the Long-Term Care Ombudsman program, and an update on the Medicaid Institutional Bias Study.

Dennis Streets, Director, Division of Aging and Adult Services, Department of Health and Human Services (DHHS), and Sharon Wilder, State Long-Term Care Ombudsman, DHHS, made presentations on State and regional Long-Term Care Ombudsman. The presentation included budget information for the Regional Long Term Care Ombudsman Program for SFY 05-06, including full time equivalent (FTE) data and cost estimates to align the program with national standards for long term care ombudsman coverage. The Commission heard that 27.6 long-term care ombudsman FTEs currently serve 89,056 beds. This is a ratio of 1 to approximately 3,227 beds. The national standard is based on the 1995 report of the United States Institute on Medicine which recommends one (1) ombudsman for every 2,000 long term care beds. An additional 16.5 FTEs would be required to meet the benchmark of one (1) FTE per 2,000 beds. Or, taking into account the occupancy rates in long-term care facilities, there would need to be 10.13 additional FTEs to meet a one (1) FTE per 2,000 "occupied" beds benchmark.

Lisa Alecxih, Vice President, The Lewin Group, was scheduled to present the final report of the Medicaid Institutional Bias Study but experienced an unexpected travel delay. As such, Larry Nason, Charlotte Gibbons, and Tracy Colvard, representatives from DHHS, discussed the recommendations and answered questions on the study. The Commission received a summary of biases and recommendations. The Commission also received a copy of a memorandum from Mark Benton, Senior Deputy Director/ Chief Operating Officer, Division of Medical Assistance, DHHS. This memorandum was a follow up to questions asked by the Commission during the meeting on January 4, 2006. The Commission expressed an interest in addressing identified biases in the upcoming 2006 Session and continuing work on these issues when they resume meeting in the following interim.

April 4, 2006

The North Carolina Study Commission on Aging met on Tuesday, April 4, 2006 at 10:00 a.m. in room 643 of the Legislative Office Building. Representative Earle was the presiding Co-Chair. At this meeting, the Commission heard presentations on a Commission request for federal funding for training of geriatricians, the Community Alternatives Program for Disabled Adults (CAP/DA) and an overview of Commission draft recommendations.

Ben Popkin, Commission staff, reviewed the revised draft letter on Title VII federal funding for geriatric and gerontology training to be sent by the Commission to the NC Congressional

delegation. (Appendix E.)

Tracy Colvard with the Department of Health and Human Services, Division of Medical Assistance, presented the Commission with an overview of the Community Alternatives Program for Disabled Adults (CAP/DA) and details about the allotment and availability of slots for services across the State. There are 13,200 total slots statewide and 88% of them are filled, leaving 1570 vacant slots. Mr. Colvard told Commission members about screening and reimbursement refinements the Division is developing to address current practices for use of CAP/DA slots and services. A number of questions were asked about the number of slots and efforts to match the appropriate range of services to individual need. The Department indicated that they are reviewing the program in an effort to obtain a more appropriate match of services to client needs.

Theresa Matula, Commission Staff, presented draft recommendations to Commission members. She reviewed each of the twelve recommendations along with the relevant background information. The Commission members unanimously approved recommendations on each of the following issues:

1. Increase Adult Day Care Reimbursement Rates
2. Increase CAP Awareness of Adults Day Health Options and Update
3. Health Care Personnel Registry
4. Telemonitoring Evaluation
5. LTC Ombusdman
6. NC NOVA Special Licensure Designation
7. Housing
8. Posting of Fines and Penalties for LTC Facilities
9. LTC Insurance Tax Credit
10. Medicaid Institutional Bias – CAP/DA Slots
11. Medicaid Institutional Bias – Recommendations to Address Biases
12. Additional Funds for Home and Community Care Block Grant

May 3, 2006

The North Carolina Study Commission on Aging met on Wednesday May 3, 2006 at 11:30 a.m. in Room 643 of the Legislative Office Building. Senator Dannelly was the presiding Co-Chair. During the meeting, staff reviewed the Commission's draft report to the Governor and the 2006 Regular Session of the 2005 General Assembly.

COMMISSION RECOMMENDATIONS

The North Carolina Study Commission on Aging makes the recommendations presented in this section to the Governor and the 2006 Session of the 2005 General Assembly. Each recommendation is followed by background information, and any corresponding legislative proposals appear in Appendix G of this report.

Recommendation 1:
Increase Adult Day Care Reimbursement Rates

The Study Commission on Aging recommends that the General Assembly appropriate funds to the Adult Day Care Fund and to the Home and Community Care Block Grant for a $5.00 per day rate increase for adult day care and adult day health care.

Background

Adult Day programs are designed to serve adults experiencing a decrease in physical, mental, and social functioning. The adult day program environment recognizes and attends to emotional, intellectual, and physical needs.

On January 4, 2006, the Commission heard presentations on Adult Day Services. The presentation included general information on both the social model and the health model as well a final report on the North Carolina Adult Day Services Project. The Commission also toured the Total Life Center in Raleigh, which is a combination center offering both a social and health model.

There are 107 total Adult Day Care and Adult Day Health Care programs located in 58 counties. Of the 107 total programs: there are 50 Adult Day Care programs, 54 Adult Day Care/Adult Day Health combination programs and 3 Adult Day Health only programs. The current average cost for providing services in an Adult Day Care facility is $46.00 per day, the current reimbursement rate is $28.07. The reimbursement is $17.93 less than the average cost per day of providing services. The current average cost for providing services in an Adult Day Health Care facility is $53.00 per day, the current reimbursement rate is $35.00. The reimbursement is $18.00 less than the average cost per day of providing services. According to Fiscal staff estimates, the cost estimate for a $5.00 per day rate increase is $1,043,750 in State funding.

The Commission supports adult day and adult day health programs and understands the important role they play in our communities. As such, the Commission recommends that the General Assembly appropriate funds to provide a rate increase for adult day services (Bill Draft: 2005-SQz-8).

Recommendation 2:
Increase CAP Awareness of Adult Day Health Options and Update on Status of Study Recommendations

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Aging and Adult Services, and the Division of Medical Assistance, to provide education, and training if necessary, to ensure that case managers with the Community Alternatives Program (CAP) are aware of Adult Day Health Services and that this option is being considered in all situations appropriate for the client. The Department shall report by July 30, 2006, to the Study Commission on Aging on these efforts, and shall also provide a status report on changes implemented as a result of the

Adult Day Services Study.

Background

On January 4, 2006, the Commission heard presentations on Adult Day Care services, including the health model. The Commission also heard a presentation on this date regarding the health services provided to Community Alternatives Program (CAP) participants as compared to health services provided at an adult day health care program.

The Adult Day Care presentation on January 4, 2006, included a report with recommendations which resulted from the study authorized by S.L. 2004-124, Sec. 10.21. In an effort to support and sustain adult day services in North Carolina, the Department of Health and Human Services contracted with a national adult day services resource center to provide training and consultation to adult day services providers and adult day services consultants. The Division of Aging and Adult Services has begun work on some of the recommendations contained in the report.

The above recommendation will allow the Commission to monitor progress on report recommendations and track the status of adult day and adult day health programs. As such, the Commission recommends that the General Assembly direct the Department of Health and Human Services to ensure awareness of adult day health services and to provide a status report on changes implemented as a result of the adult day services study. (Bill Draft: 2005-SHz-11)

Recommendation 3:
Health Care Personnel Registry

The Study Commission on Aging recommends that the General Assembly enact legislation and appropriate funding for staff support to expand the Health Care Personnel Registry to include unlicensed staff that have access to residents or clients and or their property and are employed in health care facilities as defined in G.S. 131E-256; and expand the definition of health care facilities to include all MH/DD/SAS day treatment programs, agencies and/or community service providers as defined in 10A NCAC 27G.0602(10)(b), which includes unlicensed MH/DD/SAS community based services providers and multiunit assisted housing with services as defined in G.S. 131D-2(7a); and prohibit health care facilities defined under G.S. 131E-256 from hiring any person who has a substantiated finding on the Health Care Personnel Registry.

Background

The entities and individuals subject to the provisions of the Health Care Personnel Registry are defined by statute. G.S. 131E-256(b) defines entities that are considered "health care facilities" and G.S. 131E-256(c) defines individuals that are considered "health care personnel." Concerns were expressed to the Commission that these statutory definitions may not contain a comprehensive listing of all entities and personnel currently providing similar hands-on care. In response to this concern, the Study Commission on Aging's Report to the Governor and the 2005 Session of the 2005 General Assembly, contained the following recommendation:

> *The North Carolina Study Commission on Aging recommends that the General Assembly direct the Medical Care Commission to adopt rules to prohibit a licensed home care agency from hiring an individual with substantiated findings on the North Carolina Health Care Personnel Registry; and direct the Department of Health and Human Services to study whether there are any additional "health care facilities" and "health care personnel" that are employed in health care settings that should be included in the Health Care Personnel Registry and report their findings to the Study Commission on Aging.*

S.L. 2005-276, Section 10.40A(q) required the Department of Health and Human Services to study whether there are any additional "health care facilities" and "health care personnel" that are employed in health care settings, including unlicensed health care settings, that should be contained in the Health Care Personnel Registry and listed in G.S. 131E-256. The Department was required to report its findings and recommendations to the North Carolina Study Commission on Aging by December 1, 2005.

January 18, 2006, the Department presented to the Commission, a report that included the following three recommendations:

1. "The Health Care Personnel Registry should be expanded to include all unlicensed staff of health care facilities, as defined in G.S. 131E-256, which have access to residents or clients and or their property."
2. "The Health Care Personnel Registry should be expanded to include the following health care facilities: Licensable facilities as defined in G.S. 122C-3(14)b which includes all MH/DD/SAS day treatment programs, agencies and/or community service providers as defined in 10 NCAC 27G.0602(10), which includes unlicensed MH/DD/SAS community based service providers and multiunit assisted housing with services as defined in G.S. 131D-2(7a)."
3. "Health Care Facilities as defined in G. S. 131E-256(b) shall not employ any person who has a substantiated finding on the Health Care Personnel Registry."

The Department believes that they will need additional staff resources to process the increased number of allegation reports as a result of the expansion, and to manage expansions over the last five years. (The Department reports that in the last five years, allegations have increased 280% and there has been a 62% increase in cases needing investigations.) The Department estimates that it will need $1.7 million for: 18 investigator positions, 3 regional supervisor/investigator positions, and 6 administrative support positions.

In response to the report presented by the Department, the Study Commission on Aging recommends that the General Assembly enact legislation to expand the health care personnel registry by amending the definitions of health care facilities and health care personnel, to prohibit the employment by health care facilities of any person who has a substantiated finding on Health Care Personnel Registry, and to appropriate funds to the Division of Facility Services for staffing. (Bill Draft: 2005-SHz-12)

Recommendation 4: Telemonitoring Evaluation

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Medical Assistance, to evaluate the use of telemonitoring equipment as a tool to improve the health of home-based individuals through increased monitoring and responsiveness resulting in increased stabilization rates and decreased hospitalization rates, the evaluation must include a representative number of older adults. The Department shall report to the Commission on the cost effectiveness of telemonitoring and the benefits to individuals and healthcare providers by August 1, 2007.

Background

During the meeting on February 1, 2006, the Study Commission on Aging heard a presentation on Home Health Telehealth. The Commission learned that Telemonitoring equipment is capable of monitoring and conveying vital signs, providing patient education, and assisting individuals with medication compliance. A telemonitoring program could allow more frequent tracking of an

individual's health status with a goal improved care through more immediate provider intervention, increased stabilization, and reduced hospitalization. The presentation was made by a representative from the Association of Home and Hospice Care of North Carolina and the Commission was asked to support legislation to implement telehome care in NC's Medicaid home health program to assist in controlling health care costs and to improve patient outcomes. Therefore, the North Carolina Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Medical Assistance, to evaluate the use of telemonitoring equipment and report to the Commission. (Bill Draft: 2005-SHz-13)

Recommendation 5: LTC Ombudsman

The Study Commission on Aging recommends that the General Assembly appropriate funding for 10 Long-Term Care Ombudsman positions and related travel expenses.

Background

In existence since 1976, the Long-Term Care Ombudsman Program is an advocacy program for residents of nursing homes and adult care homes. In 1989, the General Assembly enacted G.S. 143B, Article 3, Part 14D, to define the establishment, policy, duties and responsibilities of the Long-Term Care Ombudsman Program. The Program consists of state and regional ombudsman. The State Program is located in the Department of Health and Human Services and the Regional Long-Term Care Ombudsman Programs are located in the Area Agencies on Aging. Ombudsmen investigate complaints made by or on behalf of long term care residents, resolve grievances, and provide education for the public and facility staff about resident/patient rights. For additional information on the Long-Term Care Ombudsman Program, http://www.dhhs.state.nc.us/aging/ombud/ombinfo.htm .

The Commission requested information from the Department of Health and Human Services, Division of Aging and Adult Services, on the Long Term Care Ombudsman Program. The Division provided a report to the Commission during the meeting on March 29, 2006. The presentation included budget information for the Regional Long Term Care Ombudsman Program for SFY 05-06, including full time equivalent (FTE) data, and cost estimates to align the program with national standards for long term care ombudsman coverage. Details are as follows:

- Current Regional Ombudsman Funding:

Federal	State*	Local	Total
$1,509,512	$407,071	$212,952	$2,129,535

  *State funding including state matching funds and $318,275 in recurring state appropriations.

- Currently, 27.6 long term care ombudsman FTEs serve 89,056 beds. This is a ratio of 1 to approximately 3,227 beds. The national standard is based on the 1995 report of the United States Institute on Medicine which recommended one (1) ombudsman for every 2,000 long-term care beds.

- An additional 16.5 FTEs would be required to meet the benchmark of one (1) FTE per 2,000 beds. However, the estimated occupancy rate in 2004 for nursing facilities was 89.4% and was 79% for adult care homes and the estimate on the total number of occupied beds is 75,467. Therefore, one (1) FTE per 2,000 occupied beds would require 37.73 Long-Term Care Ombudsman FTEs. There are currently 27.6 FTEs. Therefore, there need to be 10.13 additional FTEs in order to meet a one (1) FTE per 2,000 "occupied" beds benchmark.

- The Division of Aging and Adult Services estimates that $492,136 is the cost for salary, benefits, and travel for 10 FTEs. The average hiring rate based on information reported by the area agencies on aging equates to the hiring rate for a grade 70 state position.

The Study Commission on Aging recognizes the importance of the Long-Term Care Ombudsman Program and the growth that is has experienced and may continue to experience. As such, the Commission recommends that the General Assembly appropriate funding for ten (10) Long-Term Care Ombudsman positions and related travel expenses. (Bill Draft: 2005-SHz-15)

Recommendation 6:
NC NOVA Special Licensure Designation

The Study Commission on Aging recommends that the General Assembly enact legislation implementing the North Carolina New Organizational Vision Award (NC NOVA) Special Licensure Designation in which long-term care providers may participate on a voluntary basis in an effort to improve recruitment, retention, development, and job satisfaction of the direct care workforce, and improve the care provided to long-term care clients, residents, and patients.

Background

During the February 15, 2006 meeting, the Commission heard a presentation on the North Carolina New Organizational Vision Award (NC NOVA) project. NC NOVA is a voluntary special licensing award for home care agencies, adult care homes, and nursing homes. The project has been funded thus far by The Robert Wood Johnson Foundation and The Atlantic Philanthropies, with the Institute of the Future of Aging Services in Washington serving as the national program office.

The NC NOVA project focuses on direct care workers. Direct care workers include nurse aides, in-home aides/home health aides, and personal care aides/attendants. The presentation pointed out that North Carolina has high turnover rates for direct care workers, with average annual rates in 2004 as follows: 106% in adult care homes, 107% in nursing homes, and 41% in home care agencies. The presentation also provided that direct care jobs are among the occupations with the largest projected job growth - it is anticipated that NC will need 30,590 additional direct care workers from 2002 to 2012. The focus of NC NOVA is workforce development and retention for direct care workers. As of November 2004, the median hourly wage for the three major job categories is as follows:

Home Health Aides:	$8.22	(median hourly wage)
Nurse Aides, Orderlies, Attendants:	$9.59	(median hourly wage)
Personal and Home Care Aides:	$8.06	(median hourly wage)
	$8.83	(weighted median hourly wage across categories)

The weighted median hourly wage across the same three categories for 2004 was $8.83, and for 2003 it was: $8.67

The NC NOVA project is an incentive/reward based program with uniform criteria across long-term care settings. Review will be conducted by the Carolinas Center for Medical Excellence and a special license is issued for entities obtaining the NC NOVA designation. Currently, NC NOVA is being piloted in 60 sites: 20 adult care homes, 20 nursing homes, and 20 home health agencies. The pilot phase lasts from July 2005 until May 2006. NC NOVA does need legislation, but State funds are not needed as the grant contains sufficient funds for operation in FY 2006-2007.

It is anticipated that NC NOVA will benefit providers, workers and consumers. The Study

Commission on Aging realizes the importance of direct care workers and the vital role they play in long-term care. Therefore, the Commission recommends that the General Assembly enact legislation implementing the North Carolina New Organizational Vision Award (NC NOVA) Special Licensure Designation in which long-term care providers may participate on a voluntary basis in an effort to improve recruitment, retention, development, and job satisfaction of the direct care workforce, and improve the care provided to long-term care clients, residents, and patients. (Bill Draft: 2005-SHz-10)

Recommendation 7: Housing

The Study Commission on Aging recommends that the General Assembly appropriate an additional $10 million dollars for the Housing Trust Fund with $4 million of the total amount going to the Urgent Repair Program to provide grants for emergency home repairs for elderly homeowners and other homeowners with special needs.

Background

On February 15, 2006, the Study Commission on Aging heard a presentation on housing options for seniors. The presentation provided that according to HUD's special tabulations of 2000 Census data: 41% of elderly renter households had a housing problem (40% were cost-burdened, 20% were severely cost-burdened), and 23% of elderly home-owning households had a housing problem (22.5% were cost-burdened, 10% were severely cost-burdened). The presentation pointed out that affordable housing is that which costs nor more than 30% of a household's monthly income and what was once affordable may not continue to be affordable as a person ages. Additionally, affordable housing doesn't necessarily mean that the housing is safe.

During the presentation, the Commission received information on a number of housing programs, one of which was the Urgent Repair Program. The Urgent Repair Program provides grants for emergency home repairs for elderly homeowners and other homeowners with special needs (with income restrictions). Funds may also be used for accessibility modifications. The Program is financed through the NC Housing Trust Fund and other agencies. The North Carolina Housing Finance Agency awards funds to nonprofit organizations, local governments and regional councils for the Urgent Repair Program. In 2005, 543 elderly homeowners received assistance through the program and the average cost per household was $3,359.

The Study Commission on Aging recognizes the need for safe, affordable housing for older adults and recommends that the General Assembly appropriate an additional $10 million dollars for the Housing Trust Fund with $4 million of the total amount going to the Urgent Repair Program to provide grants for emergency home repairs for elderly homeowners and other homeowners with special needs. (Bill Draft: 2005-RDz-13)

Recommendation 8: Posting of Fines and Penalties for LTC Facilities

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services, Division of Facility Services to post by October 15, 2006, the substantiated infractions, fines, and penalties assessed to long-term care facilities.

Background

On March 15, 2006, the Commission heard a presentation on fines and penalties in long-term care

facilities presented by the Division of Facility Services, Department of Health and Human Services. The Commission learned that fines and penalties assessed to long-term care facilities are not currently posted in a location accessible to the public. The Commission believes timely posting in a manner that is easily accessible to the public would be valuable to consumers. Currently other agencies, such as the Department of Environmental and Natural Resources make posted fines accessible on the Internet.

The Department has indicated that they are researching a way to post penalties for the public's use on the Department's website. Therefore, the Study Commission recommends that the General Assembly direct the Department of Health and Human Services, Division of Facility Services, to post by October 15, 2006, the substantiated infractions, fines, and penalties assessed to long-term care facilities. (Bill Draft: 2005-SQz-11)

Recommendation 9:
LTC Insurance Tax Credit

The Study Commission on Aging recommends that the General Assembly enact House Bill 118 or Senate Bill 37 Reenact Long-Term Care Insurance Tax Credit.

Background

In 1997, the North Carolina Study Commission on Aging recommended that the 1997 General Assembly enact a 15% tax credit, up to a maximum of $350, on the premiums paid by the purchaser of long-term care insurance policies. According to the 1997 Commission report, the Office of State Budget and Management estimated that a 15% tax credit up to a maximum of $350 may result in a revenue loss of $17 million. The report further stated that, the average premium was $1,600, thus a 15% credit would be equal to $240. The report acknowledged that it was difficult to estimate the offsetting benefits of the tax credit in terms of reduced Medicaid payments, but that the cost of a year's stay in a North Carolina nursing home was $40,000. The Commission recommended this tax credit again in 1998, and the credit became G.S. 105-151.28:

> ***§ 105-151.28. Credit for premiums paid on long-term care insurance.***
>
> *(a) Credit. – An individual is allowed, as a credit against the tax imposed by this Part, an amount equal to fifteen percent (15%) of the premium costs the individual paid during the taxable year on a qualified long-term care insurance contract that offers coverage to either the individual, the individual's spouse, or a dependent for whom the individual was allowed to deduct a personal exemption under section 151(c)(1)(A) of the Code for the taxable year. The credit allowed by this section may not exceed three hundred fifty dollars ($350.00) for each qualified long-term care insurance contract for which a credit is claimed. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who claims the credit allowed by this subsection shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.*
>
> *(b) No Double Benefit. – No credit is allowed for payments that are deducted from, or not included in, the taxpayer's gross income for the taxable year. If the taxpayer claimed a deduction for health insurance costs of self-employed individuals under section 162(l) of the Code for the taxable year, the amount of credit otherwise allowed the taxpayer under this section is reduced by the applicable percentage provided in section 162(l) of the Code. If the taxpayer claimed a deduction for medical care expenses under section 213 of the Code for the taxable year, the taxpayer is not allowed a credit under this section. A taxpayer who*

claims the credit allowed by this section must provide any information required by the Secretary to demonstrate that the amount paid for premiums for which the credit is claimed was not excluded from the taxpayer's gross income for the taxable year.

(c) Definition. – For purposes of this section, the term 'qualified long-term care insurance contract' has the same meaning as defined in section 7702B of the Code.[1]

The tax credit was effective for taxable years beginning on or after January 1, 1999, and expired for taxable years beginning on or after January 1, 2004.

On January 16, 2003, the Department of Revenue prepared a memorandum for the Revenue Laws Study Committee on the status of the tax credit for premiums paid on long-term care insurance. The memorandum outlined the Department's review of some of the returns on which the credit was claimed. During this review, auditors found that some taxpayers, who were not eligible for the tax credits, claimed the tax credits; and that some taxpayers claimed long-term care credits greater than the cap of $350. The Department found that, "Of the 2,155 returns reviewed, only 192 contained allowable long-term care credits. Taxpayers were not eligible for the credits claimed on the remaining 1,963 returns in this group. As a group, therefore, over 90% of the returns incorrectly claimed the credit." Because this represented a sample, the Department indicated that they did not know the error rate for all returns claiming the credit. They attributed the high error rate to two possible factors: "One factor is the complicated nature of the credit and the other is confusion of this credit with the repealed child health insurance credit." Additionally, the memorandum indicated that, for tax year 2001, the credit reduced tax revenue by $10,367,883.

The 2003 North Carolina Study Commission on Aging recommended repealing the sunset on the long-term care insurance tax credit. In its 2003 report, the Commission expressed agreement with a statement from a Division of Aging's report, *Increasing Personal Responsibility for Long Term Care through Private Long Term Care Insurance*. The Division's report stated that, "In addition to the public benefit of having a much larger segment of the adult population positioned to pay privately for long-term care in terms of the state's economic health, consumers and families benefit from the ability to pay privately through increased choice and flexibility in terms of the range of services and settings of care available." The Commission's bills repealing the sunset were introduced during the 2003 Session, but were not successful.

According to information received by the Commission staff, on June 5, 2003, the Department of Revenue reported that they had audited 2,372 returns for the tax year 2002, and adjusted 650 to disallow the credit, representing a 27% error rate. This error rate was down considerably from the 90% error rate on the 2001 returns reported earlier by the Department. The Department attributed the decrease to: 1) informing tax preparers of the appropriate use of the credit; 2) clarifying instructions about eligibility for the credit; 3) improving the verbiage in software developers' tax packages; and 4) communicating with taxpayers whose credit was disallowed in 2001, to inform them of the eligibility criteria for the tax credit. An additional $279,628 was assessed on the 650 returns adjusted, and returns continue to be audited as resources permit. On November 3, 2003, the Department reported that they had processed 3,574,530 returns: 2,158,850 paper and 1,415,680 efiled. Of the total, there were 35,936 on which a credit for long-term care insurance was claimed for a total of $19,110,623.

During the February 10, 2004 meeting, the Commission heard a presentation on long-term care insurance from Carla Obiol with the Seniors' Health Insurance Information Program (SHIIP), and presentations on issues related to the tax credit from Department of Revenue employees Karl Knapp, Tax Research Division, and Nancy Pomeranz, Personal Taxes Division. Ms. Pomeranz

[1] A corresponding change was also made to the estates provision to exclude long-term care insurance premiums from an estate or trust. G.S. 105-160.3(b)(7).

discussed the error rate experienced on the long-term care tax credit and the Department's efforts to reduce that error rate. The Department indicated that they had made progress in reducing the error rate on the long-term care insurance tax credit.

Restoration of the long-term care insurance tax credit was an item mentioned frequently during presentations on March 9, 2004, by organizations representing older adults in North Carolina. At the Commission's request, legislation was introduced during the 2004 Session to remove the sunset on the long-term care tax credit. The legislation did not pass, and the credit has sunset effective for the 2004 tax year. During the Commission's public hearings following the 2004 Session, persons expressed support for re-enactment of the tax credit. Lieutenant Governor Purdue also expressed her support of re-enactment of the tax credit during her presentation to the Commission on December 1, 2004.

In 2003 and 2004, the Commission recommended repealing the sunset. The Commission's report to the 2005 General Assembly, the North Carolina Study Commission on Aging recommended that the General Assembly re-enact the Long-Term Care Insurance Tax Credit. As a result, House Bill 118 Reenact Long-Term Care Insurance Tax Credit was introduced in the House and referred to the House Committee on Finance on 2/9/05. Senate Bill 37 Reenact Long-Term Care Insurance Tax Credit was introduced in the Senate and referred to the Senate Committee on Finance on 2/3/05. The North Carolina Study Commission on Aging has supported the long-term care insurance tax credit since its inception recommends enactment of House Bill 118 or Senate Bill 37 to Reenact Long-Term Care Insurance Tax Credit. (See Appendix F for HB 118 and SB 37.)

Recommendation 10:
Medicaid Institutional Bias – CAP/DA Slots

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services to review the CAP/DA program including slot distribution and re-distribution to ensure that the CAP/DA waiting list is managed as efficiently as possible, identification and alleviation of identified biases, implementation of a uniform screening/assessment tool, and other strategies to ensure maximum operational efficiency and effectiveness for those individuals qualifying for CAP/DA services, and to make an interim report to the Study Commission on Aging by August 30, 2006 and a final report by August 30, 2007.

Background

On January 4, 2006 and on March 29, 2006, the Commission heard presentations on the Medicaid institutional Bias Study. This study was mandated by Section 10.3 of S.L. 2004-124 for the purpose of identifying any bias that favors support for individuals in institutional settings over support for individuals living at home. During these two meetings, the Commission had a number of questions concerning CAP/DA slots and the waiting list for slots. Based on information shared by the Department, there are 13,200 CAP/DA slots for SFY 04-05. There is a waiting list of 8,196 individuals that need a CAP/DA slot.

Bias #6 contained in The Lewin Group's report indicated that CAP/DA enrollment caps limit the number of people who can access care in the community and suggested that the State monitor the use of newly available slots and provide funding for CAP/DA as needed. Bias # 7 contained in The Lewin Group's report indicated that there is no differentiation of need on the CAP/DA wait list and suggested the creation of a priority list for waiver admission for persons at risk of institutionalization. Bias #8 in the report stated that there was inconsistent allocation of CAP/DA slots and that individuals may wait for waiver services in one county while other counties have

unused waiver slots.

During presentations, the Commission questioned whether there might be a way to prioritize the wait list. The Division of Medical Assistance indicated that a uniform screening/assessment tool and the related automated business processes are currently being designed. The Division anticipates that upon completion, this will create a central point of entry for all individuals in need of Medicaid long term care. It is also anticipated that the process would facilitate an "upfront" determination of long term care needs and the best options for meeting those needs. Further, the Division indicates that the CAP/DA clinical coverage policy is currently being amended to prohibit certain individuals from being placed on waiting lists including:

- CAP-DA Clients transferring from other counties;
- Individuals transferring from other waiver programs (CAP/C and CAP/AIDS);
- Individuals being discharged from hospitals or nursing facilities; and
- And Individuals transferring from Medicaid's Private Duty Nursing services.

The Commission received a memorandum from the Department dated February 9, 2006 in response to questions raised during the January 4, 2006 presentation. Additionally, the Commission heard a presentation on slot allocation and related issues during the meeting on April 4, 2006. During the April meeting, the Division of Medical Assistance presented the Commission with an overview of the CAP/DA program and detail about the allotment and availability of slots for CAP/DA services across the State. The Department indicated that they are reviewing the program in an attempt to appropriately match services to a client's needs.

In response to the presentations and discussions related to CAP/DA, the Commission recommends that the General Assembly direct the Department of Health and Human Services to examine the CAP/DA program in response to issues identified in the Medicaid Institutional Bias Report and to report findings. The report should include actions taken and planned by the Department in response to each bias identified in the study and should also include the following information:

1. Information on the utilization of CAP/DA slots, including a history of slots used per year over the last 10 years and the anticipated need during the next 10 years.
2. A description of the CAP/DA slot allocation formula; and a breakdown of slots by county, including the re-allocation of any unused slots.
3. Strategies to ensure that the CAP/DA waiting list is managed as efficiently as possible, including consideration of whether there should be an expiration date tied to unused slots so that they may be reallocated in a timely manner to areas with waiting lists.
4. Implementation of a uniform screening/assessment tool and other strategies to ensure maximum operation efficiency and effectiveness for those individuals qualifying for CAP/DA services. This should include information on whether the lists should be prioritized by risk of institutionalization.

(Bill Draft: 2005-SQz-10)

Recommendation 11:

Medicaid Institutional Bias – Recommendations to Address Biases

The Study Commission on Aging recommends that the General Assembly direct the Department of Health and Human Services to work with providers and advocates of home and community based services to review the North Carolina Institutional Bias Study Report prepared by The Lewin Group and to make recommendations on ways to address the biases

identified in the report and to report to the Study Commission on Aging by October 15, 2006.

Background

On January 4, 2006 and on March 29, 2006, the Commission heard presentations on the Medicaid Institutional Bias Study. This study was mandated by Section 10.3 of S.L. 2004-124 for the purpose of identifying any bias that favors support for individuals in institutional settings over support for individuals living at home. Institutional bias refers to the policies and practices within Medicaid that make it easier for a beneficiary to access institutional care than services in home and community based settings. In response to The Lewin Group's report, in a letter dated March 29, 2006, Secretary Hooker Odom indicated that the Department was in the process of addressing a number of areas where additional work is needed.

The Commission is interested in further exploration of The Lewin Group's report and possible solutions and believes it would be productive for the Department to work with providers during the legislative session and report to the Commission next interim As such, the Commission recommends that the General Assembly direct the Department of Health and Human Services to collaborate with providers and advocates of home and community based services to review and make recommendations addressing biases identified in the North Carolina Institutional Bias Study Report. (Bill Draft: 2005-SQz-9)

Recommendation 12:
Additional Funds for Home and Community Care Block Grant

The Study Commission on Aging recommends that the General Assembly appropriate an additional $5 million in funding for the Home and Community Care Block Grant (HCCBG).

Background

The Study Commission on Aging received input from the general public, and from organizations that represent older adults, supporting additional funding for the Home and Community Care Block Grant (HCCBG):

- During the November 16, 2005 Commission meeting, Support and/or Restoration of Funding for the Home and Community Care Block Grant (HCCBG) was the most frequently mentioned issue by organizations representing older adults.
- Preserve and Expand the Home and Community Care Block Grant (HCCBG) was one of the most frequently mentioned issues during the public hearings conducted by the Commission on February 21, 2006 and February 28, 2006. Additionally, Preserve and Expand Senior Center Funding and Support for In-Home and Community Based Services are two other areas mentioned with great frequency during the hearings, and both are eligible for funding under the HCCBG.

The HCCBG, established by G.S.143B-181.1(a)(11), is the consolidation of several funding sources (i.e., the Older Americans Act, the Social Services Block Grant in support of respite care, portions of the State In-Home and Adult Day Care funds, and other relevant State appropriations). The HCCBG includes federal funds, State funds, local funds, and a consumer contribution component. It gives counties greater discretion, flexibility and authority in determining services, service levels and service providers; and streamlines and simplifies the administration of services.

With input from older adults, County Commissioners approve an annual funding plan that defines services to be provided, the funding levels for these services, and the community service agencies to provide these services. Counties can select from among 18 eligible services including: Adult Day Care, Adult Day Health Care, Care Management, Congregate Nutrition, Group Respite, Health

Promotion and Disease Prevention, Health Screening, Home Delivered Meals, Housing and Home Improvement, Information and Assistance, In-Home Aide, Institutional Respite Care, Mental Health Counseling, Senior Center Operations, Senior Companion, Skilled Home (Health) Care, Transportation, and Volunteer Program Development. Counties make the decision on which services to provide, however congregate nutrition and home-delivered meals are provided in almost every county under the HCCBG.

Any person age 60 and older is eligible for services under the HCCBG. Although, the HCCBG program places an emphasis on reaching those most in need of services (the Older Americans Act (OAA) gives priority to serving the "socially and economically needy" -with particular attention to low income minority elderly and older individuals residing in rural areas). Additionally, the OAA calls for reaching out to older individuals with severe disabilities, limited English-speaking ability, and Alzheimer's disease or related disorders (and caregivers of these individuals).

The focus of the HCCBG is to support the frail elderly in their preference to be cared for at home; improve and maintain the physical and mental health of older adults; assist older adults and their caregivers with accessing services and information; provide relief to family caregivers so that they can continue their caregiving; and allow older adults to remain actively engaged with their communities.

According to staff in the North Caroling General Assembly Fiscal Research Division, in 2003, $1,000,000 was cut from the HCCBG. In 2004, $800,000 was appropriated for HCCBG - $460,000 of which was to increase by $5, the daily Adult Day Care and Adult Day Health Care funded by the HCCBG and $340,000 remaining for the rest of HCCBG.

The Commission recognizes the importance of the Home and Community Care Block Grant and recommends that the General Assembly appropriate an additional $5 million in funding for the Home and Community Care Block Grant (HCCBG). (Bill Draft: 2005-RDz-14)

APPENDICES

APPENDIX A

2005 Recommendation Status Report

North Carolina Study Commission on Aging
Recommendations
to the
2005 North Carolina General Assembly, 2005 Regular Session

Prepared by Staff for the
North Carolina Study Commission on Aging

October 18, 2005

2005 RECOMMENDATION STATUS REPORT

RECOMMENDATION	RESULT
Recommendation 1 **The North Carolina Study Commission on Aging recommends that the General Assembly appropriate $150,000 to the Office of the State Auditor to conduct an assessment of the Community Alternatives Program for Disabled Adults to determine the medical and clinical quality and adequacy of actions taken by the Division of Medical Assistance.**	House Bill 44 was introduced, received a favorable report in the House Committee on Aging, and was re-referred to the House Committee on Appropriations. On a related note, S.L. 2005-276, Sec. 10.20 (SB 622, Sec. 10.20) requires the Department of Health and Human Services, Division of Medical Assistance, to study developing a new system for reimbursing the Community Alternatives Program. The new system must: • Use a case-mix reimbursement system, similar to the one used by nursing facilities and home health agencies, to determine the level of care provided and the amount paid for the care provided; • Incorporate into the case-mix system the home environment and social support systems; and • Use the Resource Utilization Groups-III (RUG-III) to determine the level of need for Community Alternatives Programs services except for CAP-MR/DD program services. The Division must report not later than May 1, 2006, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the development of the new system, including an implementation schedule. Full implementation of the new system must be not later than January 1, 2007.
Recommendation 2 **The North Carolina Study Commission on Aging recommends that the General Assembly direct the Medical Care Commission to define geographical service areas and staffing qualifications for licensed home care agencies providing in-home aide services, and to appropriate $550,000 to increase the survey cycle to every two years for licensed only in-home aide agencies.**	Section 10.40A.(a), S.L. 2005-276 (Section 10.40A.(a), SB 622) requires the North Carolina Medical Care Commission to adopt rules defining geographic service areas for in-home aide services and staffing qualifications for licensed home care agencies for the purpose of ensuring effective supervision of in-home aide staff and the timely provision of services. Changes also include a requirement for the Department of Health and Human Services to inspect each home care agency at least every **three** years Section 10.40A.(m), S.L. 2005-276 (Section 10.40A.(m), SB 622) defines a "geographic service area" as the geographic area in which a licensed agency provides home care services. The budget also provided staff for the required inspections every three years. Item 42 on page G-6 of the Joint Conference Committee Report, provides that $218,495 in recurring funds was appropriated to support five Facility Survey Consultants and an additional $5,469 in non-recurring funds was appropriated for 2005-2006.

RECOMMENDATION	RESULT
Recommendation 3 **The North Carolina Study Commission on Aging recommends that the General Assembly direct the Medical Care Commission to adopt rules to prohibit a licensed home care agency from hiring an individual with substantiated findings on the North Carolina Health Care Personnel Registry; and direct the Department of Health and Human Services to study whether there are any additional "health care facilities" and "health care personnel" that are employed in health care settings that should be included in the Health Care Personnel Registry and report their findings to the Study Commission on Aging.**	Section 10.40A.(a), S.L. 2005-276 (Section 10.40A.(a), SB 622) allows the North Carolina Medical Care Commission to adopt rules prohibiting licensed home care agencies from hiring individuals listed on the Health Care Personnel Registry. Section 10.40A.(q), S.L. 2005-276 (Section 10.40A.(q), SB 622) directs the Department of Health and Human Services to study whether there are any additional "health care facilities" and "health care personnel" that are employed in health care settings, including unlicensed health care settings, that should be contained in the Health care Personnel Registry and listed in G.S. 131E-256. The Department is required to report findings and recommendations to the North Carolina Study Commission on Aging by December 1, 2005.
Recommendation 4 **The North Carolina Study Commission on Aging recommends that the General Assembly direct the Medical Care Commission to adopt rules requiring applicants for home care licensure to receive training in the requirements for licensure, the licensure process, and the rules pertaining to the operation of a home care agency.**	Section 10.40A.(a), S.L. 2005-276 (Section 10.40A.(a), SB 622) allows the North Carolina Medical Care Commission to adopt rules requiring applicants for home care licensure to receive training in the requirements for licensure, the licensure process, and the rules pertaining to the operation of a home care agency.

RECOMMENDATION	RESULT
Recommendation 5 **The North Carolina Study Commission on Aging recommends that the General Assembly codify the Client Rights and Responsibilities that currently exist in home care licensure rules.**	Section 10.40A.(n), S.L. 2005-276 (Section 10.40A.(n), Senate Bill 622) establishes the Home Care Clients' Bill of Rights. The Bill of Rights includes: legislative intent, declaration of clients' rights, notice to client, implementation, enforcement and investigation, and confidentiality. *Declaration of Home Care Clients' Rights*. – Each home care agency client has the following rights: • To be informed and participate in his or her plan of care. • To be treated with respect, consideration, dignity, and full recognition of his or her individuality and right to privacy. • To receive care and services that are adequate, appropriate, and in compliance with relevant federal and State laws and rules and regulations. • To voice grievances about care and not be subjected to discrimination or reprisal for doing so. • To have his or her personal and medical records kept confidential and not be disclosed without appropriate written consent. • To be free of mental and physical abuse, neglect, and exploitation. • To receive a written statement of services provided by the agency and the charges the client is liable for paying. • To be informed of the process for acceptance and continuance of service and eligibility determination. • To accept or refuse services. • To be informed of the agency's on call service. • To be informed of supervisory accessibility and availability. • To be advised of the agency's procedures for discharge. • To receive a reasonable response to his or her requests of the agency. • To be notified within 10 days when the agency's license has been revoked, suspended, canceled, annulled, withdrawn, recalled, or amended. • To be advised of the agency's policies regarding patient responsibilities. *Notice to Client.* – During the initial evaluation visit or before furnishing services, an agency must provide each client with: 1. A copy of the declaration of home care clients' rights. 2. A copy of the agency's policies regarding client responsibilities as it relates to safety and care plan compliance. 3. The address and telephone number for information, questions, or complaints about services provided by the agency. 4. The address and telephone number of the section of the Department of Health and Human Services responsible for the enforcement of the provisions of this Part. *Enforcement and Investigation.* – The Department of Health and Human Services is responsible for enforcement of the home care provisions and must investigate complaints within a reasonable period of time, not to exceed 60 days. When the Department receives a complaint pertaining to client care or safety, an investigation must be initiated: 5. Immediately upon receipt of the complaint if the complaint alleges a life threatening situation. 6. Within 24 hours if the complaint alleges abuse of a client as defined by law. 7. Within 48 hours if the complaint alleges neglect of a client as defined by law. 8. Within two weeks in all other situations. Investigations by the Department must be completed within 30 days. Within 72 hours, a home care agency must investigate complaints made to the agency by a home care client or the client's family and must document the existence of the complaint and the resolution. *Implementation, Confidentiality, and Rules.* – Home care agency directors are responsible for implementing changes and each agency must provide appropriate training. The Department must maintain the confidentiality of persons registering complaints and of medical records. The North Carolina Medical Care Commission must adopt rules defining the scope of permissible advertising and promotional practice by home care agencies.

RECOMMENDATION	RESULT
Recommendation 6 **The North Carolina Study Commission on Aging recommends that the General Assembly authorize the Department of Health and Human Services to impose a civil penalty against adult care home licensure applicants who supply false information or omit material information on licensure applications.**	Section 10.40A.(l), S.L. 2005-276 (Section 10.40A.(l), SB 622) requires the Department to impose a civil penalty on any applicant for licensure who provides false information or omits information on the portion of the licensure application requesting information on owners, administrators, principals, or affiliates of the facility. The amount of the penalty is the amount prescribed for a Type A Violation. (Note: this provision also increased penalty amounts.)
Recommendation 7 **The North Carolina Study Commission on Aging expresses its appreciation for the efforts of the North Carolina Senior Games program to keep older adults mentally and physically active and recommends that the General Assembly appropriate an additional $150,000 for Senior Games.**	Under S.L. 2005-276 (SB 622), the appropriations for Senior Games include a recurring amount of $175,000 and a $100,000 non-recurring appropriation 2005-06.
Recommendation 8 **The North Carolina Study Commission on Aging recommends that the General Assembly appropriate an additional $4,000,000 in State funds for the Home and Community Care Block Grant.**	House Bill 43 was introduced and referred to House Appropriations. Senate Bill 38 was introduced and referred to Senate Appropriations/Base Budget

RECOMMENDATION	RESULT
Recommendation 9 **The North Carolina Study Commission on Aging recommends that the General Assembly re-enact the Long-Term Care Insurance Tax Credit.**	House Bill 118 and Senate Bill 37 were introduced on behalf of the Commission and referred to House and Senate Finance Committees. These bills were not enacted and the tax credit no longer exists for taxable years beginning on or after January 1, 2004.
Recommendation 10 **The North Carolina Study Commission on Aging recommends that the Adult Protective Services Task Force collaborate with stakeholders and persons interested in improvements to the adult protective services system, and report findings and recommendations to the Legislative Study Commission on State Guardianship Laws and the Study Commission on Aging.**	S.L. 2005-23 (HB 45) was enacted and requires the Department of Health and Human Services, Adult Protective Services Task Force, to collaborate with stakeholders and other persons interested in improving adult protective services. The Department is required to report findings and recommendations to the North Carolina Study Commission on Aging and the Legislative Study Commission on State Guardianship Laws on or before April 1, 2006.
Recommendation 11 **The North Carolina Study Commission on Aging recommends that the General Assembly appropriate funds for labor enhancement payments for workers in Medicaid-reimbursed, non-institutional settings.**	House Bill 119 was introduced, received a favorable report in the House Committee on Aging, and was re-referred to the House Committee on Appropriations.

RECOMMENDATION	RESULT
Recommendation 12 **The North Carolina Study Commission on Aging recommends that the General Assembly direct the President of The University of North Carolina and the President of the North Carolina System of Community Colleges to explore ways to increase the capacity of the institutions to produce geriatricians, geriatric-social workers, geriatric pharmacists, geriatric allied health workers, and graduates specialized in geriatric nursing and geriatric dentistry; and study how to improve the Nursing Scholars Program and the Nurse Educational Scholarship Loan Program to increase the number of graduates specializing in geriatric care and to report their findings to the North Carolina Study Commission on Aging on or before January 6, 2006.**	House Bill 183 was introduced, received a favorable report in the House Committee on Aging and was re-referred to the Committee on Rules, Calendar, and Operations of the House.
Recommendation 13 **The North Carolina Study Commission on Aging recommends that the General Assembly clarify the long-term care criminal records checks statutes to provide that only public information may be disclosed.**	S.L. 2005-4 (Senate Bill 41) was enacted and became effective March 23, 2005. The act modifies the existing law requiring criminal history background checks for employees of long-term care facilities to clarify that the Department of Health and Human Services will only indicate to an employer whether the criminal history record has information that might affect the applicant's employability under the law. Specific results of the national criminal history record check will not be shared with the employer. The act also modifies the definition of "area authority" to make conforming changes with mental health and Department of Justice statutes reflecting under mental health reform, area authorities have assumed administrative roles and are no longer service providers.

Summary of Substantive Legislation Related to Aging

North Carolina General Assembly

2005 Session

Prepared by Staff for the:
North Carolina Study Commission on Aging

November 1, 2005

Enacted Legislation

Criminal Records Checks / Long Term Care Changes

S.L. 2005-4 (SB 41) modifies the existing law requiring criminal history background checks for employees of long-term care facilities to clarify that the Department of Health and Human Services will only indicate to an employer whether the criminal history record has information that might affect the applicant's employability under the law. Specific results of the national criminal history record check will not be shared with the employer.

The act also modifies the definition of "area authority" to make conforming changes with mental health and Department of Justice statutes since area authorities have assumed administrative roles and are no longer service providers.

This act became effective March 23, 2005.

Adult Protective Services Task Force / Collaborate

S.L. 2005-23 (HB 45) directs the Department of Health and Human Services, Adult Protective Services Task Force, to collaborate with stakeholders and other persons interested in improving adult protective services and to report findings and recommendations to the North Carolina Study Commission on Aging, and the Legislative Study Commission on State Guardianship Laws, on or before April 1, 2006.

This act became effective April 28, 2005.

License Assisted Living Facilities / Elderly

S.L. 2005-66 (SB 572) deletes the assisted living residence category, "homes for developmentally disabled adults," as these homes are now licensed under Chapter 122C, and creates a new category, "adult care homes that serve only elderly persons." This change permits homes to be licensed to serve only this category of client. For purposes of this category, "elderly person" is defined as:

- Any person age 55 or older who requires assistance with activities of daily living, housing, and services; or
- Any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia that requires assistance with activities of daily living, housing, and services.

The Medical Care Commission is directed to adopt rules to implement the act.

This act became effective May 26, 2005.

Jury Exemptions / 72 and Older

S.L. 2005-149 (SB 321) allows a person who is 72 or older and summoned as a juror to request either a temporary or permanent exemption. The judge or trial court administrator has discretion to accept or reject either, including substituting a temporary exemption for a requested permanent exemption.

This act became effective October 1, 2005, and applies to persons summoned for jury service on or after that date.

Exploitation/Elderly or Disabled Adult

S.L. 2005-272 (HB 1466) expands the offense of exploitation of an elder or disabled adult and increases the penalty for that offense.

The act repeals 14-32.3(c), the current exploitation offense, and creates a new G.S. 14-112.2, which does the following:

- Prohibits a person who stands in a position of trust and confidence, or a person who has a business relationship with, an elder or disabled adult to knowingly, by deception or intimidation, obtain or use, or endeavor to obtain or use, the elder or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive them of the use, benefit, or possession or to benefit someone other than the elder or disabled adult.
  - Violation of this provision is as follows:
    - A Class F felony for funds, assets, or property valued at $100,000 or more.
    - A Class G felony for funds, assets, or property valued at $20,000 or more but less than $100,000.
    - A Class H felony for funds, assets or property valued at less than $20,000.
- Prohibits any person who knows or reasonably should know that an elder or disabled adult lacks the capacity to consent, to obtain or use, endeavor to obtain or use, or conspire with another to obtain or use the adult's funds, assets, or property with the intent to temporarily or permanently deprive the elder or disabled adult of the use, benefit, or possession, or to benefit someone other than the elder or disabled adult.
  - Violation of this provision is as follows:
    - A Class G felony for funds, assets, or property valued at $100,000 or more.
    - A Class H felony for funds, assets, or property valued at $20,000 or more but less than $100,000.
    - A Class I felony for funds, assets or property valued at less than $20,000.

This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

Senior Prescription Drug Access Program Funding

S.L. 2005-276, Sec. 10.3 (SB 622, Sec. 10.3) provides that if there is a shortfall of funds from the Health and Wellness Trust Fund, the Director of the Budget may use up to $1.5 million in the 2005-2006 fiscal year to fully fund the Senior Prescription Drug Access Program through December 31, 2005.

This section became effective July 1, 2005.

Senior Cares Program Administration/Automatic Enrollment Medicare Prescription Drug Program

S.L. 2005-276, Sec. 10.4 (SB 622, Sec. 10.4) authorizes the Department of Health and Human Services (Department) to administer the "Senior Cares" prescription drug access program, approved by the Health and Wellness Trust Fund Commission and funded by the Health and Wellness Trust Fund, until the program expires December 31, 2005. The Department is authorized to conduct activities after December 31, 2005 that are related to closing the program and paying claims incurred before, but received after, December 31, 2005.

This provision also authorizes the Department to automatically enroll in the Medicare Part D Prescription Drug Program, current and future participants in the Senior Cares prescription drug assistance program whose income is not more than 135% of the federal poverty level. However, prior to automatic enrollment, the Department must give the individual the opportunity to decline automatic enrollment.

This section became effective July 1, 2005.

County Medicaid Cost Share – Adult Care Homes

S.L. 2005-276, Sec. 10.13(b) (SB 622, Sec. 10.13(b)) continues the statutory requirement that the county share of the cost of Medicaid Personal Care Services paid to adult care homes must be decreased incrementally each fiscal year until the county share reaches 15% of the nonfederal share.

This section became effective July 1, 2005.

Expand Community Care of North Carolina Management to Additional Medicaid Recipients

S.L. 2005-276, Sec. 10.17 (SB 622, Sec. 10.17) directs the Department of Health and Human Services to expand the scope of the Community Care of North Carolina management model to apply to Medicaid and dually eligible individuals chronic conditions and long-term care needs. The Department will conduct community-wide pilot programs and expand successful models for statewide application. The Department will review the impact of this expansion and report its findings to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services and the Fiscal Research Division by March 1, 2007.

This act became effective July 1, 2005.

Medicaid Personal Care Services Limitations

S.L. 2005-276, Sec. 10.19(a) (SB 622, Sec. 10.19(a)) requires the Department of Health and Human Services, Division of Medical Assistance (Division), to reduce the cost of providing personal care services under the Medicaid program by $13,711,542 for the 2005-2006 fiscal year and $16,115,389 for the 2006-07 fiscal year. The reduction must be accomplished through the implementation of a utilization management system for Personal Care Services and Personal Care Services Plus. This system may include reducing personal care services to 50 hours or otherwise managing personal care services. The Division is required to work with Community Care of North Carolina (CCNC) to determine how CCNC can help with the review of the need for and utilization of personal care services.

This section became effective July 1, 2005.

See also Studies, Referrals to Departments, Agencies, Etc. subheading in this document for Study Additional Utilization/Prior Authorization Systems for Personal Care Services and Other Home-and Community-Based Services.

Verification of State Residency for Medical Assistance

S.L. 2005-276, Sec. 10.21A (SB 622, Sec. 10.21A) requires applicants for medical assistance benefits to prove that they are North Carolina residents. The Division of Medical Assistance will not pay for any medical assistance provided to an applicant unless they have met the proof of residency requirements.

This section becomes effective January 1, 2006.

Medicaid Estate Recovery to Include Liens on Real Property

S.L. 2005-276, Sec. 10.21C (SB 622, Sec. 10.21C), as amended by S.L. 2005-345, Sec. 16 (HB 320, Sec. 16) provides that to the extent allowed by section 1396(p) of Title XIX of the Social Security Act, the Department of Health and Human Services (Department) may impose liens against real property, including the home, of a recipient of medical assistance. To the extent that allowable Medicaid claims are not satisfied as a result of the execution of any liens held by the Department, the Department is a fifth-class creditor. The act specifies that the recipient of medical care services paid for by the North Carolina Medicaid Program may be:

- Any age and receiving medical care services as an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution and cannot reasonably be expected to be discharged to return home; or
- 55 years of age or older and receiving nursing facility services, home and community-based services, hospital care and prescription drugs related to nursing facility services or home and community-based services, personal care services, Medicare premiums, private duty nursing, home health aide services, home health therapy, and/or speech pathology services.

A "home" is defined as property, consisting of the recipient's dwelling and the land used and operated in connection with the dwelling, in which a recipient has, or had immediately before or at the time of the recipient's death, an ownership interest or legal title.

This provision adds new sections to the law to:

- Allow the Department to postpone or waive its claim, including execution of a lien, when enforcement would work an undue hardship to an heir or beneficiary of the Medicaid recipient.
- Establish the criteria for an undue hardship.
- Require that a claim of undue hardship to an heir or beneficiary be made in writing to the Department within 30 days after the receipt of notification of the Medicaid lien or claim.
- Outline when estate recovery is not cost effective.
- Provide for notice of estate recovery.
- Require the county department of social services administering medical assistance to gather and provide the Department with the information and administrative or legal assistance needed to recover medical assistance and provide that the county will be paid an amount equal to 20% of the nonfederal share of recovery collected.

This section becomes effective July 1, 2006, and applies to recipients of medical assistance on or after that date. The act became effective July 1, 2005.

Long-Term Plan for Meeting Mental Health Developmental Disabilities, and Substance Abuse Services Needs

S.L. 2005-276, Sec. 10.24 (SB 622, Sec. 10.24) directs the Secretary of the Department of Health and Human Services in consultation with interested advocacy groups and affected State and local agencies to develop a long-range plan for addressing the mental health, developmental disabilities, and substance abuse services needs of the State. The plan must be consistent with G.S. 122C-102 and must address the following:

- The services needed at the community level within each LME in order to ensure an adequate level of services to the average number of persons needing the services based on population projections.
- The full continuum of services needed for each disability group within an LME, including:
  - Which services could be regional or multi-LME based
  - What percent of the population each LME would expect to use State-level facilities
  - An inventory of existing services within each LME for each disability group, and the gaps that exist
- Projected growth in services for each disability group within each LME or region that can reasonably be managed over the ensuing five-year period.
- Projected start-up costs and the total funding needed in each year from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to implement the long-range plan.

This section became effective July 1, 2005.

Senior Center Outreach

S.L. 2005-276, Sec. 10.37 (SB 622, Sec. 10.37) requires that of the funds appropriated to the Department of Health and Human Services, Division of Aging and Adult Services (Division), for the 2005-2007 fiscal biennium, the Division must enhance senior center programs as follows:

- To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- To provide start-up funds for new senior centers.

However, prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located must:

- Formally endorse the need for such a center;
- Formally agree on the sponsoring agency for the center; and
- Make a formal commitment to use local funds to support the ongoing operation of the center.

Additionally, this section requires that funds be allocated by October 1 of each fiscal year and prevents State funding from exceeding 75% of reimbursable costs.

This section became effective July 1, 2005.

State-County Special Assistance

S.L. 2005-276, Sec. 10.38 (SB 622, Sec. 10.38) provides that effective October 1, 2005, the maximum monthly rate for residents in adult care home facilities is $1,118 per month per resident, unless adjusted by the Department of Health and Human Services (Department). The maximum monthly rate for residents in Alzheimer/Dementia special care units is $1,515 per month per resident unless adjusted by the Department.

This section became effective July 1, 2005.

Special Assistance In-Home

S.L. 2005-276, Sec. 10.39(a) (SB 622, Sec. 10.39(a)), as amended by S.L. 2005-345, Sec. 18 (HB 320, Sec. 18), allows the Department of Health and Human Services (Department) to use funds from the existing State-County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals with in-home living arrangements. The provision includes the following:

- Allows payments to be made for up to 1,000 individuals during the 2005-2006 fiscal year and the 2006-2007 fiscal year.
- Provides that the standard monthly payment to individuals enrolled in the Special Assistance in-home program must be 75% of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager.
- Specifies that for State fiscal year 2005-2006, qualified individuals are not allowed to receive payments at rates less than they would have been eligible to receive in State fiscal year 2004-2005.
- Requires the Department to implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility.
- Requires the Department's policies and procedures to include the use of a functional assessment.
- Requires the Department to make the in-home option available to all counties on a voluntary basis.
- Requires that to the maximum extent possible, the Department must consider geographic balance in the dispersion of payments to individuals across the State.

This subsection became effective October 1, 2005. The act became effective July 1, 2005.

See also Studies, Referrals to Departments, Agencies, Etc. subheading in this document for Special Assistance In-Home Report.

Regulatory Changes To Improve Quality and Safety In Home Care Services, Mental Health Facilities, Adult Care Homes, and Certain Hospital Facilities

S.L. 2005-276, Sec. 10.40A(a-b) and (i-p)) (SB 622, Sec. 10.40A(a-b) and (i-p)) makes a number of changes affecting in-home care services and health care facilities.

Home Care Rules and Inspection. – The North Carolina Medical Care Commission may adopt, amend, and repeal all rules necessary for the implementation of the Home Care Agency Licensure Act and the Home Care Clients' Bill of Rights. Rules authorized include those that:

- Recognize the different types of home care services and specific requirements of the provision of each type of home care service.
- Establish staff qualifications, including professional requirements for home care agency staff. The rules may require that one or more staff of an agency be licensed or certified, may establish minimum training and education qualifications for staff, and include the recognition of professional certification boards for professions not licensed under law provided that the professional board evaluates applicants on a basis that protects the public health, safety, or welfare.
- Define geographic service areas for in-home aide services and staffing qualifications for licensed home care agencies for the purpose of ensuring effective supervision of in-home aide staff and the timely provision of services. (A "geographic service area" is the geographic area in which a licensed agency provides home care services.)
- Prohibit licensed home care agencies from hiring individuals listed on the Health Care Personnel Registry.
- Require applicants for home care licensure to receive training in the requirements for licensure, the licensure process, and the rules pertaining to the operation of a home care agency.
- Changes also include a requirement for the Department of Health and Human Services (Department) to inspect each home care agency at least every three years and a requirement that agencies provide each client with a written notice of the Division of Facility Services hotline number in advance of furnishing care to the client or during the initial evaluation visit before the initiation of services.

Home Care Clients' Bill of Rights. – The Home Care Clients' Bill of Rights is established and includes: legislative intent, declaration of clients' rights, notice to client, implementation, enforcement and investigation, and confidentiality.

Declaration of Home Care Clients' Rights. – Each home care agency client has the following rights:
- To be informed and participate in his or her plan of care.
- To be treated with respect, consideration, dignity, and full recognition of his or her individuality and right to privacy.
- To receive care and services that are adequate, appropriate, and in compliance with relevant federal and State laws and rules and regulations.
- To voice grievances about care and not be subjected to discrimination or reprisal for doing so.
- To have his or her personal and medical records kept confidential and not be disclosed without appropriate written consent.
- To be free of mental and physical abuse, neglect, and exploitation.
- To receive a written statement of services provided by the agency and the charges the client is liable for paying.
- To be informed of the process for acceptance and continuance of service and eligibility determination.
- To accept or refuse services.
- To be informed of the agency's on call service.
- To be informed of supervisory accessibility and availability.
- To be advised of the agency's procedures for discharge.
- To receive a reasonable response to his or her requests of the agency.
- To be notified within 10 days when the agency's license has been revoked, suspended, canceled, annulled, withdrawn, recalled, or amended.
- To be advised of the agency's policies regarding patient responsibilities.

Notice to Client. – During the initial evaluation visit or before furnishing services, an agency must provide each client with:
- A copy of the declaration of home care clients' rights.
- A copy of the agency's policies regarding client responsibilities as it relates to safety and care plan compliance.
- The address and telephone number for information, questions, or complaints about services provided by the agency.
- The address and telephone number of the section of the Department of Health and Human Services responsible for the enforcement of the provisions of this Part.

Enforcement and Investigation. – The Department of Health and Human Services is responsible for enforcement of the home care provisions and must investigate complaints within a reasonable period of time, not to exceed 60 days.

When the Department receives a complaint pertaining to client care or safety, an investigation must be initiated:

- Immediately upon receipt of the complaint if the complaint alleges a life threatening situation.
- Within 24 hours if the complaint alleges abuse of a client as defined by law.
- Within 48 hours if the complaint alleges neglect of a client as defined by law.
- Within two weeks in all other situations.

Investigations by the Department must be completed within 30 days.
Within 72 hours, a home care agency must investigate complaints made to the agency by a home care client or the client's family and must document the existence of the complaint and the resolution.

Implementation, Confidentiality, and Rules. – Home care agency directors are responsible for implementing changes and each agency must provide appropriate training. The Department must maintain the confidentiality of persons registering complaints and of medical records. The North Carolina Medical Care Commission must adopt rules defining the scope of permissible advertising and promotional practice by home care agencies.

Adult Care Home Licensure, Monitoring, and Inspection. – Amends the law concerning the licensing of facilities to include a requirement that the Department issue a license for a facility not currently licensed as an adult care home for a period of six months. The Department is required to issue a license for the balance of the calendar year if the licensee demonstrates substantial compliance with laws pertaining to licensing and to the Adult Care Home Residents' Bill of Rights, and with rules.

This section also deletes some requirements pertaining to the monitoring of adult care homes and replaces them with new requirements. New requirements include the following:

Monitoring and Inspection. – The Department must ensure that adult care homes requiring a license are monitored for licensure compliance on a regular basis. The provision specifies that all licensed facilities, including adult care units in nursing homes, are subject to inspections at all times by the Secretary of the Department of Health and Human Services. The Division of Facility Services is required to inspect all adult care homes and adult care units in nursing homes on an annual basis, effective July 1, 2007 and thereafter. Further, the Department must ensure that adult care homes are inspected every two years to determine compliance with physical plant and life-safety requirements.

Routine Monitoring by County Departments of Social Services. – The Department is required to work with county departments of social services for routine monitoring in adult care homes and to ensure compliance with State and federal laws, rules, and regulations. The Division of Facility Services will oversee the monitoring and perform any required follow-up inspection. The county departments of social services must document in a written report, all on-site visits, including monitoring visits, revisits, and complaint investigations, and must submit to the Division of Facility Services written reports of each facility visit within 20 working days of the visit.

Annual Reviews and Intervention with the County Departments of Social Services. – The Division of Facility Services is required to conduct and document annual reviews of the county departments of social services' performance. The Department is allowed to intervene when monitoring is not done in a timely manner or when there is failure to identify or document noncompliance. Departmental intervention must include one or more of the following:

- Sending staff of the Department to the county departments of social services to provide technical assistance and to monitor the services being provided by the facility.
- Advising county personnel as to appropriate polices and procedures.
- Establishing a plan of action to correct county performance.

The Secretary of Health and Human Services determines when the Department must assume the county's regulatory responsibility for the county's adult care homes.

Training for Adult Home Specialists and Supervisors. – County departments of social services' adult home specialists and their supervisors are required to complete the following:

- 8 hours of prebasic training within 60 days of employment;
- 32 hours of basic training within 6 months of employment;
- 24 hours of postbasic training within 6 months of the basic training program;
- 8 hours (minimum) of complaint investigation training within 6 months of employment; and
- 16 hours (minimum) of statewide training annually by the Division of Facility Services.

Monitoring of Air Circulation, Ventilation, and Room Temperature. – The Department is required to regularly monitor the enforcement of rules pertaining to air circulation, ventilation, and room temperature in resident living quarters. These rules must include a requirement that air conditioning or at least one fan per resident bedroom and living and dining areas be provided when the temperature in the main center corridor exceeds 80 degrees Fahrenheit. (These requirements were deleted from a previous subsection in the law and simply recodified in a new location.)

Administrator Directory. – The Department is required to keep an up-to-date directory of all persons who are administrators. An "Administrator" is defined in the law as a person approved by the Department who has the responsibility for the total operation of a licensed domiciliary home. (This provision was deleted from a previous subsection in the law and simply recodified in a new location.)

The section also contains a requirement that adult care homes conspicuously post the Division of Facility Services' complaint hotline number in a public place in the facility.

Adult Care Home Penalties. –

Penalty Changes. – Penalties for violation of Residents' Rights, or State and federal laws and regulations are increased as follows:

- A civil penalty for each Type A Violation in a home with 6 (previously 9) or fewer beds must be imposed for not less than $500 (previously $250) nor more than $10,000 (previously $5,000). The Department must impose a civil penalty in an amount not less than $1,000 (previously $500) nor more than $20,000 (previously $10,000) for each Type A Violation in facilities licensed for 7 (previously 10) or more beds.
- A plan of correction for a Type B Violation cannot exceed requirements imposed by existing rule or law.
- Where a facility has failed to correct a Type A Violation, the Department must assess the facility a civil penalty in the amount of up to $1,000 (previously $500) for each day that the deficiency continues beyond the time specified in the plan of correction.
- Where a facility has failed to correct a Type B Violation within the time specified for correction, the Department must assess the facility a civil penalty in the amount of up to $400 (previously $200) for each day that the deficiency continues beyond the date specified for correction.
- The Department is required to impose a civil penalty on any applicant for licensure that provides false information or omits information on the portion of the licensure application requesting information on owners, administrators, principals, or affiliates of the facility. The amount of the penalty must be as prescribed for a Type A Violation.

Penalty Review Committee Changes. – The penalty review committee, established by law to review administrative penalties, is required to meet at least semiannually. The committee will provide a forum for residents, guardians or families of residents, local departments of social services, and providers, will make recommendations to the Department on changes in policy, training, or rules as a result of its review and publish a report. One member of the Department outside the Division of Facility Services, and one member not affiliated with the Department will cochair the committee. The Secretary of the Department of Health and Human Services administers the work of the committee and provides meeting notice to the following:

- The licensed provider.
- The local department of social services that is responsible for oversight of the facility involved.
- The residents affected.
- The families or guardians of the residents affected.

The Department is required to notify families or guardians of affected residents of the right to request a penalty review committee review of the Department's penalty decision before the decision becomes final. Within 60 days of receipt of a request from a family member or guardian for review of the Department's penalty decision, the penalty review committee must meet to conduct the review and must inform the family member or guardian of the results of the review.

Quality Improvement Consultation Program for Adult Care Homes. – The Department's Division of Aging and Adult Services (Division) is required to develop a Quality Improvement Consultation Program for Adult Care Homes (Program). During development of the Program, the Division must consult with adult care home providers, county departments of social services, consumer advocates, and other interested stakeholders. The purpose of the Program is to promote better care and improve quality of life in a safe environment for residents in adult care homes through consultation and assistance with adult care home providers. County departments of social services are responsible for implementation of the Program with all adult care homes located in the respective county.

The Department must submit a progress report addressing the following topics:

- Principles and philosophies that are resident-centered and promote independence, dignity, and choice for residents;
- Approaches to develop continuous quality improvement with a focus on resident satisfaction and optimal outcomes;
- Dissemination of best practice models that have been used successfully elsewhere;
- A determination of the availability of standardized instruments, and their use to the extent possible, to assess and measure adult care home performance according to quality of life indicators;
- Utilization of quality improvement plans, that include agreed upon time frames for completion of improvements and identification of needed resources for adult care homes, and that identify and resolve issues that adversely affect quality of care and services to residents;
- Training required to equip county departments of social services' staff to implement the Program;
- A distinction of roles between the regulatory role of the Department's Division of Facility Services and the quality improvement consultation and monitoring responsibilities of the county departments of social services; and identification of staffing and other resources needed to implement the Program.

The Division must conduct a pilot of the Program. No more than four county departments of social services can participate in the pilot and geographic balance and size must be considered in carrying out the pilot. At the conclusion of the pilot, the Division must make recommendations regarding the effectiveness of the Program. If the Division recommends expansion of the pilot, the report must include the cost and a proposed timetable for implementing the recommendations, including identification of any statutory or administrative rule changes.

The progress report must be submitted on or before April 1, 2006, to the North Carolina Study Commission on Aging, to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Subcommittee on Health and Human Services. The recommendations regarding expansion of the Program must be made to the Secretary of the Department of Health and Human Services, the North Carolina Study Commission on Aging, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Subcommittee on Health and Human Services.

The portion of the section that pertains to issuing a license for a period of six months to a facility not currently licensed as an adult care home, becomes effective July 1, 2007, except that the Division may conduct inspections more frequently than annually prior to July 1, 2007, as funds and personnel permit. The portion of the section that pertains to training required of the county departments of social services' adult care home specialists and their supervisors becomes effective July 1, 2006. Specialists and their supervisors employed on or before July 1, 2006, must complete the required training components or those portions of the training components they have not completed prior to the effective date within 12 months. The remainder of the section became effective August 13, 2005.

Licensure of Facilities for the Mentally Ill, the Developmentally Disabled, and Substance Abusers. – The State law regarding the "Licensure of Facilities for the Mentally Ill, the Developmentally Disabled, and Substance Abusers" is amended. The act amends inspection and licensure practices and doubles the civil penalties that may be assessed for violations. Inspections will be conducted annually for residential facilities and every two years for licensable facilities. License periods are shortened – initial licensure may not exceed 15 months and is renewed on an annual basis thereafter. One time provisional licenses of no more than six months duration may be issued to allow facilities to demonstrate substantial compliance, either when they are initially licensed or in cases where they have fallen out of compliance and the noncompliance poses no "immediate threat to the health and safety of the individuals in the licensable facility." Additionally, facilities not serving clients for a twelve-month period are not eligible for renewed licensure.

Section 10.40A(q) contains a study. For additional information, see Studies, Referrals to Departments, Agencies, Etc. subheading in this document.

Use of Medication Aides to Perform Technical Aspects of Medication Administration in Skilled Nursing Facilities

S.L. 2005-276, Sec. 10.40C (SB 622, Sec. 10.40C) amends the Nursing Home Licensure Part of the Health Care Facility Licensure Act to allow the use of medication aides to perform technical aspects of medication administration for facilities licensed and medication administration services provided under this Part.

The North Carolina Medical Care Commission is required to adopt rules to include the following:

- Training and competency evaluation of medication aides.
- Requirements for listing under the Medication Aide Registry.
- Requirements for supervision of medication aides by licensed health professionals or appropriately qualified supervisory personnel.

The Board of Nursing must:

- Establish standards for faculty requirements for medication aide training.
- Provide ongoing review and evaluation, and recommend changes, for faculty and medication aide training requirements to support safe medication administration and improve client, resident, and patient outcomes.

This section also requires the Department of Health and Human Services to establish a Medication Aide Registry containing the names of all health care personnel in North Carolina who have successfully completed a medication aide training program that has been approved by the North Carolina Board of Nursing and passed a State-administered medication aide competency exam. Employers are required to access the Medication Aide Registry prior to allowing an individual to serve as a medication aide and are not allowed to use an individual as a medication aide unless the individual is listed on the Medication Aide Registry. Employers must note each incidence of access in the appropriate business file. Employers must also access the Health Care Personnel Registry prior to employing a medication aide and any substantiated action listed against the medication aide will disqualify the medication aide from employment in a covered facility or agency.

The North Carolina Board of Nursing and the Department of Health and Human Services must report on implementation not later than March 1, 2006 and annually thereafter, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services and the Fiscal Research Division.

This section becomes effective July 1, 2006.

Department of Health and Human Services and Community Colleges Study Use of Medication Aides to Perform Technical Aspects of Medication Administration

S.L. 2005-276, Sec. 10.40D (SB 622, Sec. 10.40D) directs the Secretary of Health and Human Services and the President of the Community Colleges System to jointly convene a study group to review and consider the use of medication aides to perform the technical aspects of medication administration.

The study group shall consist of members representing at least the following entities and licensed health care facilities and providers:

- Appointed by the Secretary of Health and Human Services:
  - Adult care homes
  - Home care agencies
  - Ambulatory surgical centers
  - Hospitals
  - Facilities providing mental health, developmental disabilities, and substance abuse services
  - Nursing homes
  - The nursing profession, as recommended by the Board of Nursing
- Community colleges appointed by the President of the Community Colleges System.
- The Secretary of the Department of Correction

- Others as may be appointed by the Secretary of Health and Human Services or the President of the Community Colleges System

The study group must address at least the following in its study and its recommendations regarding medication aide performance of the technical aspects of medication administration:

- Training and competency evaluation of medication aides
- Training standards
- Ongoing review and evaluation of medication aide training
- Requirements for supervision of medication aides

The Secretary of Health and Human Services and the President of the Community Colleges System must report the progress and recommendations of the study group to the 2006 Regular Session of the 2005 General Assembly upon its convening, and the 2007 General Assembly upon its convening.

This section became effective July 1, 2005.

Plan for Star-Rating System for Adult Care Homes

S.L. 2005-276, Sec. 10.41 (SB 622, Sec. 10.41) requires the Department of Health and Human Services to develop a plan for implementing a star-rating system for adult care homes and by not later than January 1, 2007, to report on the details and status of the plan to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

This section became effective July 1, 2005.

Studies

Referrals to Departments, Agencies, Etc.

Study Additional Utilization/Prior Authorization Systems for Personal Care Services and Other Home and Community-Based Services

S.L. 2005-276, Sec. 10.19(b) (SB 622, Sec. 10.19(b)) requires the Department of Health and Human Services, Division of Medical Assistance, to study and determine additional utilization/prior authorization systems for personal care services and other home and community-based services that can be provided to individuals who meet medical criteria. These systems must be able to be implemented when the new Medicaid Management Information System goes into effect. The Division must report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division, on the plan for implementation, including costs, not later than May 1, 2006.

This section became effective July 1, 2005.

See also Enacted Legislation for Medicaid Personal Care Services Limitation.

Community Alternative Programs Reimbursement System

S.L. 2005-276, Sec. 10.20 (SB 622, Sec. 10.20) requires the Department of Health and Human Services, Division of Medical Assistance, to study developing a new system for reimbursing the Community Alternatives Program. The new system must:

- Use a case-mix reimbursement system, similar to the one used by nursing facilities and home health agencies, to determine the level of care provided and the amount paid for the care provided;
- Incorporate into the case-mix system the home environment and social support systems; and

- Use the Resource Utilization Groups-III to determine the level of need for Community Alternatives Programs-Mentally Retarded/Developmentally Disabled program services except for CAP-MR/DD program services.

The Division must report not later than May 1, 2006, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the development of the new system, including an implementation schedule. Full implementation of the new system must be not later than January 1, 2007.

This section became effective July 1, 2005.

Medicaid Study

S.L. 2005-276, Sec. 10.21E (SB 622, Sec. 10.21E) requires the Department of Health and Human Services (Department) to study Medicaid services for individuals who are dually eligible for Medicaid and Medicare. In particular, the study must include the Medicare Part D impact on these services, the financial impact on the State of Medicare clawback provisions, and efficiencies that can be realized in services for this dually eligible population. The study must also include the impact on the Medicaid program as a whole. The Department must report the results of the study to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than May 1, 2006.

This section became effective July 1, 2005.

Special Assistance In-Home

S.L. 2005-276, Sec. 10.39(b-c) (SB 622, Sec. 10.39(b-c)) requires the Department of Health and Human Services (Department) to report to the cochairs of the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services, on or before January 1, 2006, and on or before January 1, 2007. The report must include the following:

- A description of cost savings that result from allowing individuals eligible for State-County Special Assistance the option of remaining in the home.
- A complete fiscal analysis of the in-home option to include all federal, State, and local funds expended.
- The amount of case management that is needed and which types of individuals are most in need of case management.
- The geographic location of individuals receiving payments under this section.
- A description of the services purchased with these payments.
- A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.
- Findings and recommendations as to the feasibility of continuing or expanding the in-home program.
- The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.

The Department must incorporate data collection tools designed to compare quality of life among institutionalized versus noninstitutionalized populations (i.e., an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). The Department must utilize national standards to the extent they are available.

This section became effective July 1, 2005.

See also Enacted Legislation this chapter for Special Assistance In-Home.

Regulatory Changes To Improve Quality and Safety In Home Care Services, Mental Health Facilities, Adult Care Homes, and Certain Hospital Facilities

S.L. 2005-276, Sec. 10.40A(q)) (SB 622, Sec. 10.40A(q)) directs the Department of Health and Human Services (Department) to study whether there are additional "health care facilities" and "health care personnel" that are employed in health care settings, including unlicensed health care settings, that should be contained in the Health Care Personnel Registry and listed in G.S. 131E-256. The Department must report its findings and recommendations to the North Carolina Study Commission on Aging by December 1, 2005.

This section became effective July 1, 2005.

See also Enacted Legislation for a summary of the remainder of this section.

APPENDIX B

North Carolina Study Commission On Aging

Legislative Building 16 West Jones Street Raleigh, NC 27601

November 16, 2005

XXXXXXXXX
Washington, DC 20510

Dear XXXX:

As the chairs of the North Carolina Study Commission on Aging, we are writing on behalf of the Commission to request changes to the Medicare prescription drug program enacted under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The North Carolina Study Commission on Aging was created by statute in 1987 and is charged with studying, evaluating, and recommending services to meet the current and future needs of older adults. The Commission includes members of the North Carolina Senate and House of Representatives and planners or providers of health, mental health, or social services to older adults. The Commission conducts its study during the interim between legislative sessions and makes annual recommendations to the Governor and the General Assembly. A large number of older adults do need assistance with prescription drug costs and the Commission wants to ensure that every eligible individual has an opportunity to receive, review, and understand the information on the prescription drug program and to make an informed decision about the option that is best for them.

With regard to Medicare Part D, the Commission's desire is that every eligible North Carolina citizen be fully aware and informed of the program and the plans approved for sale in North Carolina. However, the demographics associated with North Carolina's older adult population pose a challenge to our desired outcome. Below are the changes that we believe are vital to insuring that all eligible adults in North Carolina have access to the information and the time necessary to make an appropriate decision based on their situation.

Requests for Medicare Part D Changes

Due to the characteristics of North Carolina's older adult population and because the consequence of inaction results in a penalty, the North Carolina Study Commission on Aging respectfully requests the following changes:

1. Extend the open enrollment period to give eligible individuals one full year to sign up, effectively allowing individuals until November 15, 2006, to purchase a prescription drug policy without penalty. This change will allow, at particular time intervals, the identification of individuals that may need additional assistance or resources.

2. Phase in the penalty rate, so that the rate increases as the distance from the individual's enrollment cut-off date increases (i.e. .50% of the average monthly premium for each of the first 6 months past the enrollment deadline, .75% of the average monthly premium per month for months 7-12 post deadline.) The Commission believes that the penalties would result in a permanent rate increase for the very people who need the service the most and strongly opposes the possibility of penalties that could exceed one percent per month.

3. By a specified date, require CMS to verify from a specified percentage of the eligible population: an affirmative enrollment in a plan, or a response from an eligible individual declining enrollment. This will help to ensure that individuals did receive the information and did make a conscious determination of their options.

The North Carolina Department of Health and Human Services, Division of Aging and Adult Services has furnished the Commission with older adult population data to assess the challenges and thereby underscoring the need for the above changes. According to the 2002 American Community Survey, *41.1% of North Carolina's age 65 and older (65+) population lives in a rural setting* (12th highest in the US), *22.4% of the 65+ population have self-care or mobility limitations* (10th highest in the US), and *29.9% of those age 75 and older have no driver's license*. According to the survey only 14.2% of the 65+ population has a bachelor level education or higher. Yet, according to data from the National Institute for Literacy, *22% of North Carolina's population age 16 or older are at Level 1 Literacy* which is the lowest level of literacy and is defined as, "the adult population that can perform many tasks involving simple texts and documents but display difficulty using certain reading, writing, and computational skills considered necessary for functioning in every day life." Additionally, access to the list of drugs covered under each policy is a crucial component of the decision making process, but depends on Internet access or access to someone with Internet access. *North Carolina has the 10th lowest Internet usage rate among the fifty states*.

The Commission applauds the efforts that are being made by the Social Security Administration, North Carolina's Seniors' Health Insurance Information Program (SHIIP), and many other agencies and associations that serve older adults. However, based on the above data, the Commission is concerned that many older adults in North Carolina will not be able to attend a workshop or information session, will not have Internet access to the list of drugs covered under each policy, and many will not possess the level of reading and analytical skills required to evaluate the Medicare Part D options. In order to avoid placing individuals at greater risk of penalty for failure to comply by the current deadline, it is vital that we have more time to reach each eligible citizen.

The changes that the Commission is requesting will allow periodic assessment of efforts to reach older adults in North Carolina and will allow the network of agencies and associations that support this portion of the population to focus on those individuals that are struggling with a Medicare Part D decision. These changes will also help to ensure that sufficient time and resources are dedicated to reaching eligible citizens and will not unnecessarily burden them with a penalty until they have had time to make these important decisions. We appreciate your efforts in assisting us with this issue.

Sincerely,

Senator Charlie S. Dannelly
Co-Chair

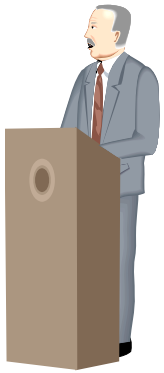
Representative Beverly M. Earle
Co-Chair

c: Senator Austin Allran
Senator Stan Bingham
Senator Julia Boseman
Senator Vernon Malone
Representative Alice Bordsen
Representative Debbie Clary
Representative Bob England
Representative Jennifer Weiss
Mr. Brad Allen
Ms. Linda Howard
Ms. Katherine Fox Price
Ms. Florence Gray Soltys
Mr. Sam Marsh
Ms. Judy Pelt

APPENDIX C

North Carolina Study Commission on Aging

Summary of Presentations
by
Organizations Representing Older Adults



Prepared for the
North Carolina Study Commission on Aging

December 20, 2005

The following organizations presented information to the North Carolina Study Commission on Aging

on November 16, 2005

Alzheimer's Association, Western Carolina Chapter
Len Erker

NC Senior Tar Heel Legislature
LaMar Moore

The Carolinas Center for Hospice and End of Life Care
Judith Brunger

NC Association on Aging
Roxanne Bragg-Cash

Friends of Residents in Long Term Care
Bill Lamb

AARP, North Carolina
Von Valletta

NC Association of Area Agencies on Aging
Mary Barker (not present/comments provided)

Association for Home and Hospice Care of North Carolina
Jim Edgerton

NC Senior Games
Judith Moss

Triangle Older Women's League
Rosemarie Downie

NC Coalition on Aging
Jean Reaves

Governor's Advisory Council on Aging
Ann Johnson

NC Adult Day Services Association
Ann Umstead (not present/comments provided)

NC Health Care Facilities Association
Stacy Flannery (not present/comments provided)

ISSUE FREQUENCY

Each organization's legislative priorities/issues of concern are summarized and presented in a table format on the following pages.

The number of organizations that mentioned the issue is in parentheses ( ) next to the issue.

The individual issues presented were grouped in the following broad categories: Community-Based Issues, Facilities Issues, Workforce Issues, and Other.

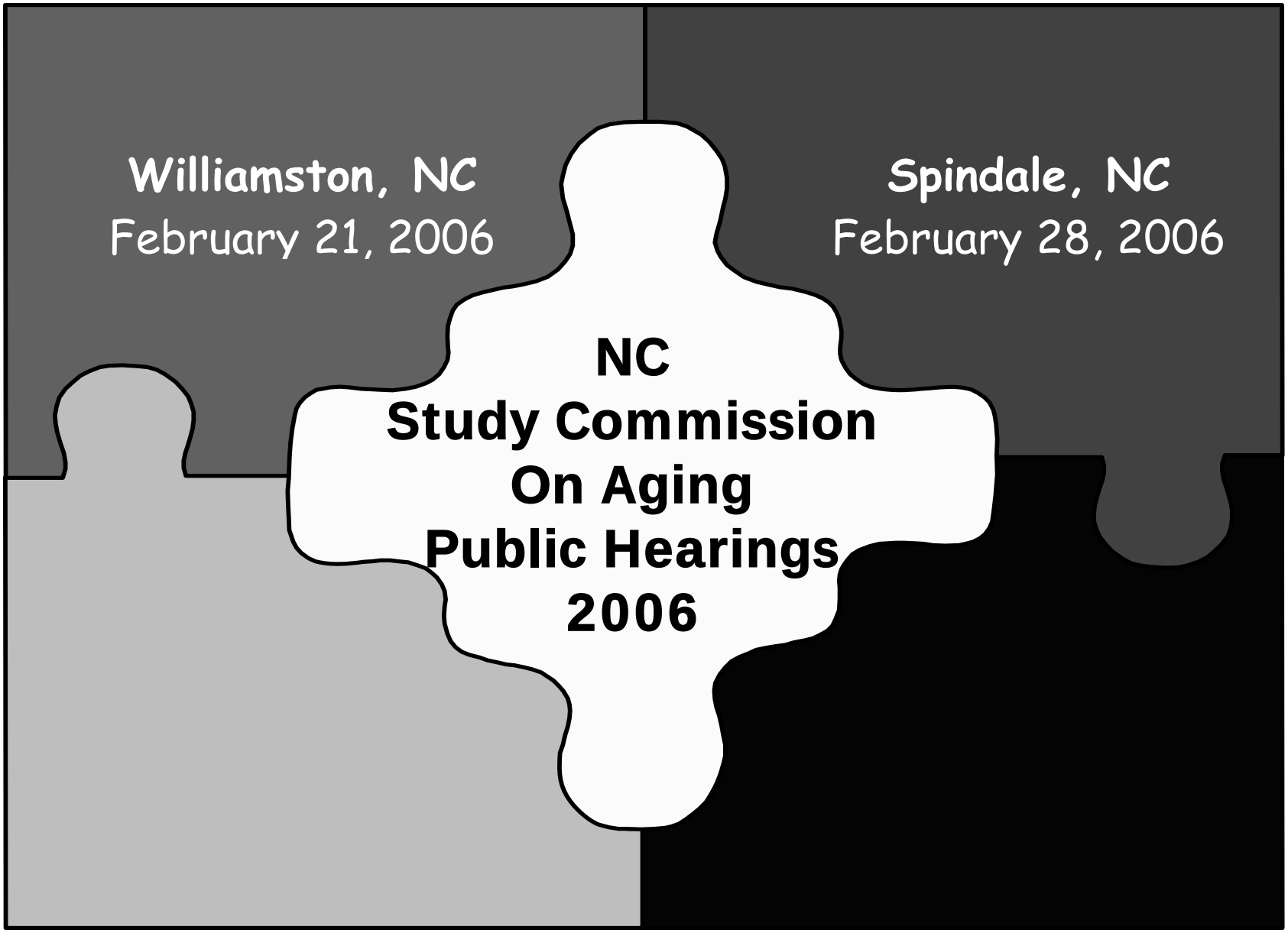
For Summary Purposes, the issues with the highest frequency were:

- **Support for/Restoration of Funding for the Home and Community Care Block Grant (HCCBG)** (*7*)
- **Restoration of the Long-Term Care (LTC) Insurance Tax Credit** (*6*)
- **Support Special Assistance (SA) In-Home Program** *(4)*
- **Support for Home & Community-Based Care Programs** *(4)*
- **Concerns About Mixed Populations in Long-Term Care (LTC) Facilities** *(4)*

	Alzheimer's Assn., Western	Assn. For Home & Hospice Care	NC Senior Tar Heel Legislature	NC Senior Games	Carolinas Center for Hospice and End of Life Care	Triangle Older Women's League	NC Assn. On Aging	NC Coalition on Aging	Friends of Residents in LTC	Governor's Advisory Council on Aging	AARP	NC Assn. Of Area Agencies on Aging	NC Adult Day Services Assn.	NC Health Care Facilities Assn.
COMMUNITY-BASED ISSUES														
Support for/Restoration of Funding HCCBG *(7)*			x			x			x	x	x	x	x	
Support for Senior Center Funding (including Centers of Merit & Excellence) *(2)*			x							x				
Support Transportation Services Funding (including for Community Based Programs, & Adult Day) *(3)*		x						x		x				
Support for Adult Day Training *(1)*													x	
Increase Adult Day Funding *(3)*								x		x			x	
Expand Use of Medicaid Funds for Adult Day Services *(1)*									x					
Address Medicare Part D Impact on CAP/DA *(1)*		x												
Support/Expand CAP/DA *(3)*								x	x	x				
Implement Core Services Plan *(1)*									x					
Support SA In-Home *(4)*		x						x	x	x				
Remove/Address Institutional Bias *(2)*		x							x					
Funding Support for NC Senior Games *(1)*				x										
Fund Indoor Plumbing for All Older Adults *(1)*										x				
Support for Respite Care Programs (i.e. Project C.A.R.E.) *(1)*	x													
Support for Home & Community-Based Care Programs *(4)*					x		x		x		x			
FACILITIES ISSUES														
Concerns About Mixed Populations in LTC Facilities *(4)*						x			x	x				x
Support Pre-Admission Screening for LTC Facility Admission *(1)*									x					
Support Statewide Standard for Adult Home Specialists *(1)*									x					
Support for Rating System *(1)*									x					
Define Meaning and Operation of Special Care Units *(1)*									x					
WORKFORCE ISSUES														
Allow Community Colleges to Conduct Criminal Record Checks on Nurse Aides (HB 833) *(2)*		x												x
Increase Salaries and Benefits for Direct Care Workers *(3)*		x							x			x		
Support Workforce Quality Initiatives *(1)*									x					
Strengthen LTC Direct Care Workforce (adequate training, improve working conditions, staff – to resident ratios, etc) *(2)*									x	x				

	Alzheimer's Assn., Western	Assn. For Home & Hospice Care	NC Senior Tar Heel Legislature	NC Senior Games	Carolinas Center for Hospice and End of Life Care	Triangle Older Women's League	NC Assn. On Aging	NC Coalition on Aging	Friends of Residents in LTC	Governor's Advisory Council on Aging	AARP	NC Assn. Of Area Agencies on Aging	NC Adult Day Services	NC Health Care Facilities Assn.
OTHER ISSUES														
Restore LTC Insurance Tax Credit *(6)*			x			x		x		x	x	x		
Increase Asset Limit for Medicaid Eligibility For Aged, Blind & Disabled *(2)*										x	x			
Preserve Medicaid Eligibility and Services for Vulnerable Adults *(1)*											x			
Increase Funds for Medicaid Reimbursement Rates *(1)*		x												
Increase Medicaid Personal Needs Allowance *(1)*														x
Telehealth - Support for DHHS Pilot *(1)*		x												
Support Grandparents Raising Minor Children *(1)*			x											
Continued Support/Promotion of Hospice Care *(1)*					x									
Support for Senior Friendly Communities *(1)*								x						
Support Safe Affordable Housing *(2)*								x			x			
Establish DHHS Office to Address Housing Needs of Vulnerable Citizens *(1)*									x					
Medicare Part D Impact on Low Income Beneficiaries *(2)*						x					x			
Increase Funding for Housing Trust Fund *(1)*											x			
Support Homestead Property Tax Exemption *(3)*								x		x	x			
Property Tax Relief for Low Income Older & Disabled Adults *(1)*											x			
Require Updated Disaster Plans for Special Needs Populations *(1)*									x					
Implement SB 10 – Focus on Quality of Care, Protection, and Strengthening Oversight of LTC Industry *(1)*										x				
Study Guardianship *(1)*										x				
Increase State Funding for Administrative Support for Area Agencies on Aging *(1)*												x		

APPENDIX D


Williamston, NC
February 21, 2006
Spindale, NC
February 28, 2006
NC
Study Commission
On Aging
Public Hearings
2006

Background Information

The North Carolina Study Commission on Aging is created to study and evaluate the existing system of delivery of State services to older adults and to recommend an improved system of delivery to meet the present and future needs of older adults. This study shall be a continuing one and the evaluation ongoing, as the population of older citizens grows and as old problems faced by older citizens magnify and are augmented by new problems. (G.S. 120-180)

The Commission may hold public meetings across the State to solicit public input with respect to the issues of aging in North Carolina. (G.S. 120-185)

2006 Public Hearings

Date	Location	Number of Speakers
February 21, 2006	Williamston, NC	26
February 28, 2006	Spindale, NC	17

The issues mentioned with the greatest frequency were:

- **Support for Senior Games**
- **Preserve and Expand Home and Community Care Block Grant (HCCBG)**
- **Preserve and Expand Senior Center Funding**
- **Support for In-Home and Community-Based Services**

NC Study Commission on Aging - 2006 Public Hearings
Frequency of Issues Expressed by Speakers

	WILLIAMSTON	SPINDALE	TOTAL
HOME-BASED SUPPORT SERVICES /ADULT DAY			
Increase HCC Block Grant - increase funding; expand coverage to nutrition programs, transportation, in-home aid services, home repair	**6**	**4**	**10**
Additional Funds For Home Based Services - general	**5**	**4**	**9**
Adult Day/Adult Day Health Care – increase funding, increase availability, allow rehabilitation services	**6**	**2**	**8**
Transportation Services – increase availability, increase funding, increase reimbursement	**4**	**2**	**6**
Home Delivered Meals	**1**	**3**	**4**
Respite Care – increase availability, decrease waiting lists	**2**	**1**	**3**
State/County Special Assistance (SA) in Home Project- preserve and expand support	**0**	**3**	**3**
Institutional Bias concerns	**1**	**1**	**2**
PROGRAM SUPPORT			
Senior Games	**11**	**4**	**15**
Senior Centers	**5**	**5**	**10**
Area Agency on Aging- restore professional staff funding	**1**	**3**	**4**
Adult Protective Services	**2**	**1**	**3**
CAP-DA-support Community Alternatives for Disabled Adults	**1**	**1**	**2**

	WILLIAMSTON	SPINDALE	TOTAL
ADULT CARE HOMES/NURSING HOMES			
Insufficient Staffing Levels – salary, benefits, training/career levels, quality and ratios	**0**	**2**	**2**
Increase Inspections, Stiffer fines, Stricter Enforcement	**0**	**2**	**2**
Concerns of combining Elderly/Mental Health Populations	**0**	**1**	**1**
MEDICAL CARE/INSURANCE/ PRESCRIPTION DRUGS			
Medicare Part D Concerns	**4**	**1**	**5**
Re-enact Long Term Care Insurance Tax Credit	**3**	**1**	**4**
Raise Medically Needy Income Limit	**1**	**1**	**2**
Prescription Drug Education – proper use, dose, effect	**0**	**1**	**1**
Prescription Drug Assistance	**1**	**0**	**1**
HOUSING AND ENVIRONMENT			
Create Safe and Affordable Housing for Seniors	**2**	**2**	**4**
Support for NC Housing Trust Fund	**2**	**1**	**3**
Property Tax Relief	**1**	**1**	**2**
Improve Air and Water Quality	**0**	**1**	**1**
Mixed Use Housing	**0**	**1**	**1**
OTHER			
Issues Related to Grandparent with Custody of Minors	**1**	**2**	**3**
Totals	**60**	**51**	**111**

Prepared by Aging Commission Staff

APPENDIX E

North Carolina Study Commission On Aging

Legislative Building 16 West Jones Street Raleigh, NC 27601

April 4, 2006

The Honorable XX
U.S. House of Representatives
Washington, DC 20515

Dear Representative XX:

On behalf of the North Carolina Study Commission on Aging, we ask for your support for reinstating funding for Title VII Geriatrics Health Professionals training as provided for by the Specter/Harkin amendment to the 2007 Labor, Health and Human Services and Education appropriations bill. The Specter/Harkin amendment to the Senate Budget Resolution, passed by the Senate on March 13, restored funding for Title VII training of Geriatrics Health Professionals to FY 2005 levels. Restoring the funding that was eliminated for Title VII training of Geriatrics Health Professionals in the FY 2006 budget will help ensure that North Carolina continues to offer accessible, quality healthcare to the older adult population.

Elimination of Title VII funding in the FY 2006 federal budget removed approximately $3 million in total federal funding that would have provided training for geriatrics health professionals from multiple disciplines (clinical medicine, nursing, social work and physical and occupational therapy). Cuts to the FY 2006 federal budget eliminated funds for the Carolina Geriatrics Education Center – which trains health professionals, faculty, students and practitioners in techniques of diagnosis, disease prevention, and treatment of older adults – and for Geriatrics Academic Career Awards – which train future physician leaders in Geriatric Medicine.

The Carolina Geriatrics Education Center is part of the National Association of Geriatric Education Centers (NAGEC) and provides training in geriatrics to health care professionals of multiple disciplines across the state of North Carolina. Members of the consortium include the Program on Aging (UNC School of Medicine, Chapel Hill), five Area Health Education Centers (AHECs) – Area L AHEC, Mountain AHEC, Charlotte AHEC, Eastern AHEC, and Wake AHEC, – and the Rural Health Group, Inc., Jackson, NC. In the fiscal year 2003-2004, the CGEC consortium trained over one thousand North Carolina health care professionals from twenty-two disciplines. For many of these professionals who work in medically underserved areas of our state, this is the only source of training and it is critical to their continuing ability to meet the growing needs of our older adults.

Your support for the Specter/Harkin amendment provisions of the FY 2007 federal budget is critical as it provides the health care workforce training required to meet the demands of the growing older adult population. North Carolina, like the nation, has a profound shortage of physicians, nurses, social workers and other health care professionals with training in care of the aging patient. Eliminating Title VII funding has greatly diminished geriatrics training for these providers who are already in short supply, and the quality of health care and the lives of our seniors will suffer for it. As such, the North Carolina Study Commission on Aging respectfully requests that the members of the United State House of Representatives support the reinstatement of Title VII funding for the training of geriatrics health professionals by supporting the Specter/Harkin amendment provisions to the House Labor, Health and Human Services and Education Appropriations bill for FY 2007.

Sincerely,

Senator Charlie S. Dannelly
Co-Chair

Representative Beverly M. Earle
Co-Chair

c: Senator Austin Allran
Representative Alice Bordsen
Representative Jennifer Weiss
Ms. Linda Howard
Senator Stan Bingham
Representative Debbie Clary
Mr. Brad Allen
Ms. Florence Gray Soltys
Ms. Judy Pelt
Senator Vernon Malone
Representative Bob England
Ms. Regina Buffy Fisher
Mr. Sam Marsh

APPENDIX F

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H **1**

HOUSE BILL 118*

Short Title:	Reenact Long-Term Care Insurance Tax Credit.	(Public)
Sponsors:	Representatives Clary, Nye (Primary Sponsors); Weiss, Wilson, Alexander, Barnhart, Bell, Blackwood, Bordsen, Coleman, England, Faison, Farmer-Butterfield, Gillespie, Glazier, Goforth, Harrison, Jeffus, Justus, LaRoque, Lewis, McGee, McLawhorn, Moore, Pate, Preston, Rapp, Sauls, Setzer, Steen, Stiller, Underhill, Walend, and Warren.	
Referred to:	Finance.	

February 9, 2005

A BILL TO BE ENTITLED

AN ACT TO REENACT THE LONG-TERM CARE INSURANCE TAX CREDIT, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-151.28 is reenacted.

SECTION 2. G.S. 105-160.3(b)(7) is reenacted.

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S **1**

SENATE BILL 37

Short Title:	Reenact Long-Term Care Insurance Tax Credit.	(Public)
Sponsors:	Senators Swindell, Allran, Dannelly; Albertson, Apodaca, Bingham, Boseman, Garwood, Hoyle, Jenkins, Lucas, Malone, Purcell, Rand, Snow, Stevens, Thomas, and Tillman.	
Referred to:	Finance.	

February 3, 2005

A BILL TO BE ENTITLED

AN ACT TO REENACT THE LONG-TERM CARE INSURANCE TAX CREDIT, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-151.28 is reenacted.

SECTION 2. G.S. 105-160.3(b)(7) is reenacted.

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2005.

APPENDIX G

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SQz-8 [v.6] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/2/2006 11:44:02 AM

Short Title: Adult Day Care Rate Increase.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE STATE ADULT DAY CARE FUND AND TO THE HOME AND COMMUNITY CARE BLOCK GRANT TO PROVIDE FOR A RATE INCREASE FOR ADULT DAY SERVICES, AS RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one million forty-three thousand seven hundred fifty dollars ($1,043,750) for the 2006-07 fiscal year, to be used to increase the rate paid to adult day and adult day health programs for services provided to clients. Of these funds, five hundred fifty-six thousand five hundred fifty-six dollars ($556,556) shall be placed in the State Adult Day Care Fund and four hundred eighty-seven thousand one hundred ninety-four dollars ($487,194) shall be placed in the Home and Community Care Block Grant. The rate for adult day care and adult day health care shall be increased by no less than five dollars ($5.00) per day per client.

SECTION 2. This act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SHz-11 [v.4] (04/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/4/2006 12:27:19 PM

Short Title: Adult Day Awareness/Status of Study Recom.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ENSURE AWARENESS OF ADULT DAY HEALTH SERVICES AND TO PROVIDE A STATUS REPORT ON CHANGES IMPLEMENTED AS A RESULT OF THE ADULT DAY SERVICES STUDY, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Health and Human Services, Division of Aging and Adult Services and the Division of Medical Assistance, shall provide education, and training if necessary, to ensure that Community Alternatives Program (CAP) case managers are aware of Adult Day Health services and that this option is being considered in all situations appropriate for the client.

SECTION 1.(b) The Department of Health and Human Services, Division of Aging and Adult Services, shall report on the status of the Partners in Caregiving Study recommendations.

SECTION 1.(c) The Department shall report the status of its activities under this section to the North Carolina Study Commission on Aging not later than July 30, 2006.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SHz-12 [v.6] (04/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/25/2006 1:23:46 PM

Short Title: Health Care Personnel Registry Expansion.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE HEALTH CARE PERSONNEL REGISTRY BY AMENDING THE DEFINITIONS OF HEALTH CARE FACILITIES AND HEALTH CARE PERSONNEL, TO PROHIBIT THE EMPLOYMENT BY HEALTH CARE FACILITIES OF ANY PERSON WHO HAS A SUBSTANTIATED FINDING ON THE HEALTH CARE PERSONNEL REGISTRY, AND TO APPROPRIATE FUNDS TO THE DIVISION OF FACILITY SERVICES FOR STAFFING, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-256 reads as rewritten:

"**§ 131E-256. Health Care Personnel Registry.**

(a) The Department shall establish and maintain a health care personnel registry containing the names of all health care personnel working in health care facilities in North Carolina who have:

(1) Been subject to findings by the Department of:

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

c. Misappropriation of the property of a health care facility.

d. Diversion of drugs belonging to a health care facility or to a patient or client.

e. Fraud against a health care facility or against a patient or client for whom the employee is providing services.

(2) Been accused of any of the acts listed in subdivision (1) of this subsection, but only after the Department has screened the allegation and determined that an investigation is required.

The Health Care Personnel Registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

(a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section.

(b) For the purpose of this section, the following are considered to be "health care facilities":

(1) Adult Care Homes as defined in G.S. 131D-2.
(2) Hospitals as defined in G.S. 131E-76.
(3) Home Care Agencies as defined in G.S. 131E-136.
(4) Nursing Pools as defined by G.S. 131E-154.2.
(5) Hospices as defined by G.S. 131E-201.
(6) Nursing Facilities as defined by G.S. 131E-255.
(7) State-Operated Facilities as defined in G.S. 122C-3(14)f.
(8) Residential Facilities as defined in G.S. 122C-3(14)e.
(9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.
(10) Licensable Facilities as defined in G.S. 122C-3(14)b.
(11) Multiunit Assisted Housing with Services as defined in G.S. 131D-2.
(12) Community Based Providers of Services for the Mentally Ill, the Developmentally Disabled, and Substance Abusers that are not required to be licensed under Article 2 of Chapter 122C.
(13) Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11.

(c) For the purpose of this section, the term "health care personnel" means any unlicensed staff of a health care facility that has direct access to residents, clients, or their property. Direct access includes any health care facility unlicensed staff that during the course of employment has the opportunity for direct contact with an individual or an individual's property, when that individual is a resident or person to whom services are provided.~~the following are considered to be "health care personnel":~~

~~(1) In an adult care home, an adult care personal aide who is any person who either performs or directly supervises others who perform task functions in activities of daily living which are personal functions essential for the health and well-being of residents such as bathing,~~

~~dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.~~

~~(2) A nurse aide.~~

~~(3) An in-home aide or an in-home personal care aide who provides hands-on paraprofessional services.~~

~~(4) Unlicensed assistant personnel who provide hands-on care, including, but not limited to, habilitative aides and health care technicians.~~

(d) Health care personnel who wish to contest findings under subdivision (a)(1) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice of the Department's intent to place its findings about the person in the Health Care Personnel Registry.

(d1) Health care personnel who wish to contest the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case hearing shall be filed within 30 days of the mailing of the written notice of the Department's intent to place information about the person in the Health Care Personnel Registry under subdivision (a)(2) of this section. Health care personnel who have filed a petition contesting the placement of information in the health care personnel registry under subdivision (a)(2) of this section are deemed to have challenged any findings made by the Department at the conclusion of its investigation.

(d2) A health care facility shall not employ any person for whom a substantiated finding has been entered on the Health Care Personnel Registry. Before hiring health care personnel into a health care facility or service, every employer at a health care facility shall access the Health Care Personnel Registry and shall note each incident of access in the appropriate business files.

(e) The Department shall provide an employer or potential employer of any person listed on the Health Care Personnel Registry information concerning the nature of the finding or allegation and the status of the investigation.

(f) No person shall be liable for providing any information for the health care personnel registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the health care personnel registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

(g) Health care facilities shall ensure that the Department is notified of all allegations against health care personnel, including injuries of unknown source, which appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must have evidence that all alleged acts are investigated and must make every effort to protect residents from harm while the investigation is in progress. The results of all investigations must be reported to the Department within five working days of the initial notification to the Department.

(h) The North Carolina Medical Care Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section.

(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a procedure to permit health care personnel to petition the Department to have his or her name removed from the registry upon a determination that:

(1) The employment and personal history of the nurse aid does not reflect a pattern of abusive behavior or neglect;

(2) The neglect involved in the original finding was a singular occurrence; and

(3) The petition for removal is submitted after the expiration of the one-year period which began on the date the petitioner's name was added to the registry under subdivision (1) of subsection (a) of this section."

SECTION 2. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Facility Services, the sum of one million seven hundred thousand dollars ($1,700,000) for the 2006-2007 fiscal year, to be used to establish positions to handle increases in allegations and investigations.

SECTION 3. Section 1 of this act becomes effective October 1, 2006. Section 2 of this act becomes effective July 1, 2006. The remainder of the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SHz-13 [v.2] (04/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 3:54:33 PM

Short Title: DHHS Evaluate Telemonitoring.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF MEDICAL ASSISTANCE, TO EVALUATE THE USE OF TELEMONITORING EQUIPMENT, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Medical Assistance, shall evaluate the use of telemonitoring equipment as a tool to improve the health of home-based individuals through increased monitoring and responsiveness, and resulting in increased stabilization rates and decreased hospitalization rates. The evaluation must include a representative number of older adults. The Department shall report to the Study Commission on Aging by August 1, 2007. The report shall include findings and recommendations on the cost effectiveness of telemonitoring and the benefits to individuals and healthcare providers.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SHz-15 [v.1] (04/04)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 4:11:20 PM

Short Title: LTC Ombudsman Position Funds.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH TEN ADDITIONAL LONG-TERM CARE OMBUDSMAN POSITIONS, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Health and Human Services the sum of four hundred ninety-two thousand one hundred thirty-six dollars ($492,136) for the 2006-2007 fiscal year for the salary, benefits, and travel for ten (10) additional Long-Term Care Ombudsman positions.

SECTION 2. This act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SHz-10 [v.5] (02/15)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/25/2006 1:12:39 PM

Short Title:	NC NOVA-Special Voluntary Licensure Designat.	(Public)
Sponsors:	Unknown.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA NEW ORGANIZATIONAL VISION AWARD SPECIAL LICENSURE DESIGNATION, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

Whereas, "direct care workers" is a nationally recognized term referring to those paraprofessionals that are employed as nurse aides, personal care aides, personal care attendants, home health aides, in-home aides, habilitation aides, and other assistive personnel who provide hands-on care; and

Whereas, direct care workers are essential to the provision of care and an enhanced quality of life for long-term care consumers, whether they are receiving services provided in a home or community setting, or in an residential or institutional setting; and

Whereas, North Carolina, like many states, is experiencing shortages of direct care workers; and

Whereas the need to attract and retain greater numbers of employees within this occupational category will continue for the foreseeable future; and

Whereas, a well-qualified, satisfied, stable, and adequate supply of direct care workers is a shared concern for employers, employees, consumers, families, and private and public payors of long-term care services received in home care agencies, adult care homes, and nursing facilities; and

Whereas, long-term care trade associations, providers, direct care workers, consumer advocacy organizations, researchers, the Department of Health and Human Services, and The Carolinas Center for Medical Excellence, have worked together to develop a voluntary and comprehensive workplace culture change program known as the North Carolina New Organizational Vision Award (NC NOVA) to address known

causes of direct care turnover for the purpose of improving the adequacy, stability, satisfaction, and quality of the direct care work; and

Whereas NC NOVA has been identified as a potential national model for replication to improve direct care workforce retention through a comprehensive and voluntary workplace culture program by the Institute for the Future of Aging Services, the program office for the national Better Jobs Better Care initiative funded by The Robert Wood Johnson Foundation, and The Atlantic Philanthropies; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 131E of the General Statutes is amended by adding a new Part to read:

"Part 6. North Carolina New Organizational Vision Award (NC NOVA) Special Licensure Designation.

"**§ 131E-154.12. Title; purpose.**

(a) This Part shall be known as the "North Carolina New Organizational Vision Award (NC NOVA) Special Licensure Designation."

(b) The purpose of this Part is to establish special licensure designation requirements for nursing homes and home care agencies licensed pursuant to this Chapter and adult care homes licensed pursuant to Article 1 of Chapter 131D. Application for the Special Licensure Designation is voluntary.

"**§ 131E-154.13. Definitions.**

The following definitions apply in this Part, unless otherwise specified:

(1) Independent Review Organization. – The organization responsible for the application, review, and determination process for NC NOVA designation.

(2) North Carolina New Organizational Vision Award (NC NOVA). – A special licensure designation for home care agencies and nursing homes licensed pursuant to this Chapter, and adult care homes licensed pursuant to Article 1 of Chapter 131D, that have been determined through written and on-site review, by an independent review organization, to have met a comprehensive set of workplace related interventions intended to improve the recruitment and retention, quality, and job satisfaction of direct care staff, and the care provided to long-term care clients and residents.

(3) NC NOVA Partner Team. – The entity responsible for developing the criteria and protocols for the NC NOVA special licensure designation. The Partner Team is inclusive of representatives from the following organizations: Association for Home and Hospice Care of North Carolina, Direct Care Workers Association of North Carolina, Duke University Gerontological Nursing Program, Friends of Residents in Long Term Care, North Carolina Assisted Living Association, North Carolina Association of Long Term Care Facilities, North Carolina Association of Non-Profit Homes for the Aging, North Carolina Department of Health and Human Services, North Carolina Foundation for Advanced Health Programs, North Carolina Health Care Facilities Association, The Carolinas Center for Medical Excellence, and the University of North Carolina at Chapel Hill – Institute on Aging.

(4) NC NOVA Provider Information Manual. – The document developed by the NC NOVA Partner Team that specifies the scope of criteria for NC NOVA designation

as well as information and procedures pertaining to the application, review, determination, and termination process.

"**§ 131E-154.14. NC NOVA Program Established.**

(a) The Department of Health and Human Services shall establish the NC NOVA program.

(b) The Department shall implement the NC NOVA program in accordance with the criteria and protocols established by the NC NOVA Partner Team and detailed in the NC NOVA Provider Information Manual.

(c) Any information submitted by applicants or obtained by the independent review organization related to NC NOVA, as well as annual turnover data voluntarily submitted by home care agencies, adult care homes, and nursing facilities for the purposes of assessing statewide turnover trends, shall not be considered a public record under G.S. 132-1.

(d) Denial of a NC NOVA designation is not subject to Article 3 of Chapter 150B.

(e) Any licensed home care agency, adult care home, or nursing home that is determined not to have met the criteria for NC NOVA designation may reapply at intervals specified by the NC NOVA Partner Team and detailed in the NC NOVA Provider Information Manual.

(f) The Department of Health and Human Services, Division of Facility Services, shall issue a NC NOVA special licensure designation document to any licensed home care agency, adult care home, or nursing home that is determined by the independent review organization to have met the criteria for NC NOVA designation. The special licensure designation document shall be in addition to the operating license issued by the Division.

(g) The Division of Facility Services shall issue the NC NOVA special licensure document to successful applicants within thirty (30) days of notification by the independent review organization.

(h) The NC NOVA special licensure designation shall be in effect for a two year period unless the provider has a change in ownership.

(1) Upon a change in ownership, if the new owner wishes to continue the NC NOVA designation, the new owner must communicate the desire in writing to the independent review organization within thirty (30) days of the effective date of the change of ownership and proceed with an expedited review in accordance with procedures detailed by the NC NOVA Partner Team and included in the NC NOVA Provider Information Manual.

a. If the new owner continues to meet the NC NOVA criteria, based upon the expedited review, the special licensure designation will remain in effect for the remainder of the two year period.

b. If the new owner fails to meet NC NOVA criteria, the special designation document shall be immediately returned to the

Division of Facility Services. The new owner may reapply for NC NOVA designation under subsection (e).

(2) Within thirty (30) days of the effective date of the change of ownership, if the new owner fails to notify the independent review organization in writing of the desire to retain the special licensure designation by undergoing an expedited review, the designation will become null and void and the special designation document must be immediately returned to the Division of Facility Services."

SECTION 2 (a). In order to ensure continuity during the initial statewide implementation phase of NC NOVA, The Carolinas Center for Medical Excellence shall be designated as the independent review organization for NC NOVA through December 31, 2010. Beginning in 2009, the Division of Facility Services, with approval from the NC NOVA Partner Team, shall implement a competitive bid process to determine an independent review organization for a minimum of five years beginning in 2011.

SECTION 2 (b). During the period of the effective date of this act, through December 31, 2010, in the event The Carolinas Center for Medical Excellence determines it cannot continue conducting independent reviews, The Carolinas Center for Medical Excellence shall provide the Partner Team with a twelve (12) month written notice of such intent, in order to ensure sufficient transition time to select another independent review entity without any disruption of the NC NOVA program.

SECTION 3. This act becomes effective January 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-RDz-13 [v.3] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 12:36:16 PM

Short Title: Funds for NC Housing Trust Fund.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE NORTH CAROLINA HOUSING TRUST FUND, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the North Carolina Housing Trust Fund the sum of ten million dollars ($10,000,000) for the 2006-2007 fiscal year, to be allocated as follows:

(1) $4,000,000 to be used by the Urgent Repair Program to provide grants for emergency repairs for elderly homeowners and other homeowners with special needs.

(2) $6,000,000 to be used by the North Carolina Housing Trust Fund.

SECTION 2. This act becomes effective July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SQz-11 [v.4] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 4:43:23 PM

Short Title: LTC Fines Posted on Internet.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF FACILITY SERVICES, TO POST THE FINES AND PENALTIES ASSESSED TO LONG-TERM CARE FACILITIES, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Facility Services, shall establish and maintain a list of substantiated infractions, fines, and penalties assessed to long-term care facilities. The list shall be accessible on the Internet and implemented not later than October 15, 2006. The Department shall report on the implementation of the list to the North Carolina Study Commission on Aging not later than November 1, 2006.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SQz-10 [v.6] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 12:49:00 PM

Short Title: CAP/DA Review and Report.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REVIEW THE CAP/DA PROGRAM IN RESPONSE TO ISSUES IDENTIFIED IN THE MEDICAID INSTITUTIONAL BIAS STUDY, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services shall examine the Community Alternatives Program for Disabled Adults (CAP/DA) in response to issues identified in the Medicaid Institutional Bias Study. The Department shall make an interim report of its findings to the North Carolina Study Commission on Aging on or before August 30, 2006, and shall submit its final report to the North Carolina Study Commission on Aging on or before August 30, 2007. The report shall include actions taken and planned by the Department in response to each bias identified in the study and shall include the following information:

(1) Information on the utilization of CAP/DA slots, including a history of slots used per year over the last 10 years and the anticipated need during the next 10 years.

(2) A description of the CAP/DA slot allocation formula; and a breakdown of slots by county, including the re-allocation of any unused slots.

(3) Strategies to ensure that the CAP/DA waiting list is managed as efficiently as possible, including consideration of whether there should be an expiration date tied to unused slots so that they may be reallocated in a timely manner to areas with waiting lists.

(4) Implementation of a uniform screening/assessment tool and other strategies to ensure maximum operation efficiency and effectiveness

for those individuals qualifying for CAP/DA services. This should include information on whether the lists should be prioritized by risk of institutionalization.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-SQz-9 [v.2] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/25/2006 1:40:16 PM

Short Title: Review of NC Institutional Bias Report.	(Public)
Sponsors: .	
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO COLLABORATE WITH PROVIDERS AND ADVOCATES OF HOME AND COMMUNITY BASED SERVICES TO REVIEW AND MAKE RECOMMENDATIONS ADDRESSING BIASES IDENTIFIED IN THE NORTH CAROLINA INSTITUTIONAL BIAS STUDY REPORT, AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services shall collaborate with providers and advocates of home and community based services to review the North Carolina Institutional Bias Study Report prepared by the Lewin Group and make recommendations on ways to address the biases identified in the report. The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging on or before October 15, 2006.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

U **D**

BILL DRAFT 2005-RDz-14 [v.3] (04/21)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/24/2006 12:38:56 PM

Short Title:	Add'l Funds for Home & Comm. Care Block Grant. (Public)
Sponsors:	.
Referred to:	

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE ADDITIONAL FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF AGING AND ADULT SERVICES, FOR THE HOME AND COMMUNITY CARE BLOCK GRANT (HCCBG), AS RECOMMENDED BY THE STUDY COMMISSION ON AGING.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Aging and Adult Services, the sum of five million dollars ($5,000,000) for the 2006-2007 fiscal year, to be used as additional funding for the Home and Community Care Block Grant (HCCBG).

SECTION 2. This act becomes effective July 1, 2006.