

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 933

Short Title: Adult Care Homes/Transfers.

(Public)

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Sponsors: Senators Kinnaird; Carter, Garrou, Lucas, and Phillips.

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Referred to: Commerce.

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April 14, 1999

A BILL TO BE ENTITLED

AN ACT PERTAINING TO THE RIGHTS OF ADULT CARE HOME RESIDENTS  
WITH RESPECT TO TRANSFER OR DISCHARGE FROM THE FACILITY.

The General Assembly of North Carolina enacts:

Section 1. Effective January 1, 2000, G.S. 131D-21 is amended by adding the following new subdivision to read:

"Each facility shall treat its residents in accordance with the provisions of this Article. Every resident shall have the following rights:

...

(17) To not be transferred or discharged from a facility except as provided under G.S. 131D-21.2."

Section 2. Effective January 1, 2000, Article 3 of Chapter 131D of the General Statutes is amended by adding the following new section to read:

**"§ 131D-21.2. Conditions for transfer or discharge from facility.**

(a) A facility shall not transfer or discharge a resident except under one or more of the following conditions:

(1) The transfer or discharge is necessary, in the opinion of the resident's physician, to meet the resident's welfare and the resident's welfare cannot be met in the facility.

1           (2)   The transfer or discharge is appropriate because, in the opinion of the  
2           resident's physician, the resident's health has improved sufficiently so  
3           that the resident no longer needs the services provided by the facility.

4           (3)   The safety of individuals in the facility is endangered.

5           (4)   The health of individuals in the facility would be otherwise endangered.  
6           The threat to the health of individuals shall be determined by a licensed  
7           physician.

8           (5)   Except as provided in this subdivision, the resident has failed, after  
9           reasonable and appropriate notice, to pay for a stay at the facility.  
10          Reasonable and appropriate notice includes notice by a third-party payor  
11          of denial of a claim for payment. A resident may not be transferred for  
12          nonpayment if the resident has submitted to a third-party payor all  
13          paperwork necessary for payment to be made.

14          (6)   The transfer is otherwise required by State or federal law.

15          (7)   The facility ceases to operate.

16          If the transfer or discharge is due to a significant change in the resident's condition but  
17          is not an emergency requiring immediate transfer or discharge, then prior to transfer or  
18          discharge the facility shall conduct an assessment to determine if a new care plan would  
19          allow the facility to meet the resident's needs.

20          The facility shall include the resident's record documentation of any conditions that  
21          result in the transfer or discharge of the resident.

22          (b)   Before a facility transfers or discharges a resident, the facility shall:

23           (1)   Notify the resident and, if known, a family member or legal  
24           representative of the resident, of the transfer or discharge and the  
25           reasons for the move in writing and in a language and manner that is  
26           understandable to the resident, family member, or legal representative.  
27           Notice shall be provided at least 30 days in advance of the transfer or  
28           discharge in order to ensure orderly transfer or discharge, except in the  
29           case of jeopardy to the health or safety of the resident or others in the  
30           facility.

31           (2)   Record the reasons for the transfer or discharge in the resident's record.

32           (3)   Include in the notice all of the following:

33           a.    The effective date of the transfer or discharge.

34           b.    The location to which the resident is transferred or discharged.

35           c.    A statement that the resident has the right to appeal the action  
36           pursuant to rules adopted by the Social Services Commission,  
37           and that the facility must allow the resident to remain in the  
38           facility until resolution of the appeal, unless otherwise provided  
39           by law.

40           d.    The name, address, and telephone number of the State long-term  
41           care ombudsman.

42           e.    The name, address, and telephone number of the Governor's  
43           Advocacy Council for Persons with Disabilities.

1           (4)    Provide sufficient preparation and orientation to residents to ensure safe  
2                    and orderly transfer or discharge from the facility.

3           (c)    As used in this section, the term 'transfer or discharge' includes movement of a  
4 resident to a bed outside of the facility, whether that bed is in the same physical plan or  
5 not. 'Transfer or discharge' does not refer to movement of a resident to a bed within the  
6 same facility."

7           Section 2. The Social Services Commission may adopt temporary rules to  
8 implement this act.

9           Section 3. This act is effective when it becomes law and applies to transfer or  
10 discharge of residents occurring on and after January 1, 2000.