

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE BILL 325

Short Title: Contested Case Hearings Change.

(Public)

Sponsors: Senators Seymour; Daniel, Richardson, and Walker.

Referred to: Judiciary I.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE TIMES WITHIN WHICH HEALTH CARE FACILITIES MAY FILE PETITIONS FOR CONTESTED CASE HEARINGS.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 131E is amended by adding a new section to read:

"§ 131E-2. Contested case hearing petition time limit.

Except as otherwise provided in this Chapter, a petition for a contested case that is authorized by this Chapter shall be filed in the Office of Administrative Hearings within 30 days after the Department mails written notice of an agency decision to the person filing the petition. This section shall not be construed to create any right to file a petition for contested case that is not otherwise granted in this Chapter."

Sec. 2. G.S. 131E-103(b) reads as rewritten:

"(b) The provisions of Chapter 150A of the General Statutes, the Administrative Procedure Act, shall govern all administrative action and judicial review in cases where the Department has taken the action described in subsection (a). A petition for contested case shall be filed within 20 days after the Department mails the licensee a notice of its decision to deny a renewal application, or to recall, suspend, or revoke an existing license."

Sec. 3. G.S. 131E-109(c) reads as rewritten:

"(c) The Secretary or a designee may suspend the admission of any new patients or residents at any nursing home or domiciliary home where the conditions of the nursing home or domiciliary home are detrimental to the health or safety of the patient or resident. This suspension shall remain in effect until the Secretary is satisfied that

1 conditions or circumstances merit the removal of the suspension. This subsection shall
2 be in addition to authority to suspend or revoke the license of the home. Any facility
3 wishing to contest a suspension of admissions shall be entitled to an administrative
4 hearing as provided in the Administrative Procedure Act, Chapter 150B of the General
5 Statutes. The petition for contested case shall be filed in the Office of Administrative
6 Hearings within 20 days after the Department mails a written notice of suspension of
7 admissions to the facility."

8 Sec. 4. This act becomes effective July 1, 1991, and applies to petitions filed
9 on and after that date.