

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 575
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Short Title: Fines/Nurs., Rest Home Licenses.

(Public)

Sponsors: Senator Conder.

Referred to: Children and Human Resources.

March 25, 1993

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE PAYMENT OF OUTSTANDING FINES AS A
CONDITION OF LICENSE RENEWAL FOR DOMICILIARY CARE
FACILITIES AND NURSING FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-102(c) reads as rewritten:

"(c) A license to operate a nursing home shall be annually renewed upon the filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fees and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall be available from the Department and shall contain all necessary and reasonable information that the Department may by rule require."

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

"(b) Licensure; inspections. –

(1) The Department of Human Resources shall inspect and license, under rules adopted by the Social Services Commission, all domiciliary homes for persons who are aged or mentally or physically disabled except those exempt in subsection (d) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary of Human Resources for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon

1 filing and the Department's approval of the renewal application. A
2 license shall not be renewed if outstanding fines and penalties imposed
3 by the State against the home have not been paid. Fines and penalties
4 for which an appeal is pending are exempt from consideration. The
5 renewal application shall contain all necessary and reasonable
6 information that the Department may by rule require. The Department
7 may also issue a provisional license to a facility, pursuant to rules
8 adopted by the Social Services Commission, for substantial failure to
9 comply with the provisions of this section or rules promulgated
10 pursuant to this section. Any facility wishing to contest the issuance of
11 a provisional license shall be entitled to an administrative hearing as
12 provided in the Administrative Procedure Act, Chapter 150B of the
13 General Statutes. A petition for a contested case shall be filed within
14 30 days after the Department mails written notice of the issuance of
15 the provisional license.

16 (2) Any individual or corporation that establishes, conducts, manages, or
17 operates a facility subject to licensure under this section without a
18 license is guilty of a misdemeanor, and upon conviction shall be
19 punishable by a fine of not more than fifty dollars (\$50.00) for the first
20 offense and not more than five hundred dollars (\$500.00) for each
21 subsequent offense. Each day of a continuing violation after
22 conviction shall be considered a separate offense.

23 (3) In addition, the Department may summarily suspend a license pursuant
24 to G.S. 150B-3(c) whenever it finds substantial evidence of abuse,
25 neglect, exploitation or any condition which presents an imminent
26 danger to the health and safety of any resident of the home. Any
27 facility wishing to contest summary suspension of a license shall be
28 entitled to an administrative hearing as provided in the Administrative
29 Procedure Act, Chapter 150B of the General Statutes. A petition for a
30 contested case shall be filed within 20 days after the Department mails
31 a notice of summary suspension to the licensee.

32 (4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality
33 of communications between physician and patient, in the course of an
34 inspection conducted under subsection (b):

35 a. Department representatives may review any writing or other
36 record concerning the admission, discharge, medication, care,
37 medical condition, or history of any person who is or has been a
38 resident of the facility being inspected, and

39 b. Any person involved in giving care or treatment at or through
40 the facility may disclose information to Department
41 representatives;

42 unless the resident objects in writing to review of his records or
43 disclosure of such information.

1 The facility, its employees and any other person
2 interviewed in the course of an inspection shall be immune
3 from liability for damages resulting from disclosure of any
4 information to the Department.

5 The Department shall not disclose:

6 a. Any confidential or privileged information obtained under this
7 subsection unless the resident or his legal representative
8 authorizes disclosure in writing or unless a court of competent
9 jurisdiction orders disclosure, or

10 b. The name of anyone who has furnished information concerning
11 a facility without that person's consent.

12 The Department shall institute appropriate policies and
13 procedures to ensure that unauthorized disclosure does not
14 occur. All confidential or privileged information obtained under
15 this section and the names of persons providing such
16 information shall be exempt from Chapter 132 of the General
17 Statutes."

18 Sec. 3. This act becomes effective October 1, 1993, and applies to renewals
19 on or after that date.