

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

4

HOUSE BILL 512

Committee Substitute Reported Without Prejudice 4/21/99

Committee Substitute #2 Favorable 4/28/99

Senate Commerce Committee Substitute Adopted 5/19/99

Short Title: Assisted Living Administrators.

(Public)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO CERTIFY ASSISTED LIVING RESIDENCE ADMINISTRATORS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 20A.

"ASSISTED LIVING ADMINISTRATOR ACT.

"§ 90-288.10. Title.

This Article shall be known as the Assisted Living Administrator Act.

"§ 90-288.11. Purpose.

The administrators of assisted living residences are responsible for the residents who require daily care to attend to their physical, mental, and emotional needs. Therefore, the certification of assisted living administrators is necessary to ensure adequate levels of care across the State and to protect public health, safety, and welfare.

"§ 90-288.12. Certification required; exemptions.

1 (a) No person shall perform or offer to perform services as an assisted living
2 administrator unless the person has been certified under the provisions of this Article. A
3 certificate granted under this Article shall be valid throughout the State.

4 (b) The provisions of this Article shall not apply to:

5 (1) Combination homes as defined in G.S. 131E-101 and hospitals that
6 contain adult care beds.

7 (2) Family care homes as defined in G.S. 131D-2(a)(5).

8 (3) Continuing care facilities, as defined in Article 64 of Chapter 58 of the
9 General Statutes, if adult care beds are housed in the same facility as
10 nursing home beds.

11 **§ 90-288.13. Definitions.**

12 The following definitions apply in this Article:

13 (1) Administrator-in-training. – An individual who serves a training period
14 under the supervision of an approved preceptor.

15 (2) Assisted living administrator. – An individual certified to operate,
16 administer, manage, and supervise an assisted living residence or to
17 share in the performance of these duties with another person who has
18 been so certified.

19 (3) Assisted living residence. – A facility defined in G.S. 131D-2(a)(1d),
20 whether proprietary or nonprofit. The term also includes institutions or
21 facilities that are owned or administered by the federal or State
22 government or any agency or political subdivision of the State
23 government.

24 (4) Department. – The Department of Health and Human Services.

25 (5) Preceptor. – An individual who is certified by the Department as an
26 assisted living administrator and who meets the requirements
27 established by the Department to serve as a supervisor of
28 administrators-in-training.

29 **§ 90-288.14. Assisted living administrator certification.**

30 An applicant shall be certified by the Department as an assisted living administrator if
31 the applicant meets all of the following qualifications:

32 (1) Is at least 21 years old.

33 (2) Provides a satisfactory criminal background report from the State
34 Repository of Criminal Histories, which shall be provided by the State
35 Bureau of Investigation upon its receiving fingerprints from the
36 applicant. If the applicant has been a resident of this State for less than
37 five years, the applicant shall provide a satisfactory criminal
38 background report from both the State and National Repositories of
39 Criminal Histories.

40 (3) Successfully completes the equivalent of two years of coursework at an
41 accredited college or university or has a combination of education and
42 experience as approved by the Department.

1 (4) Successfully completes a Department approved administrator-in-
2 training program of at least 120 hours of study in courses relating to
3 assisted living residences.

4 (5) Successfully completes a written examination administered by the
5 Department.

6 **"§ 90-288.15. Issuance, renewal, and replacement of certificates.**

7 (a) The Department shall issue a certificate to any applicant who has satisfactorily
8 met the requirements of this Article. The certificate shall show the full name of the
9 person and an identification number and shall be signed by the Secretary of the
10 Department. A certificate may not be transferred or assigned.

11 (b) All certificates shall expire on December 31 of the second year following
12 issuance. All applications for renewal shall be filed with the Department and shall be
13 accompanied by documentation of the certificate holder's completion of the annual
14 continuing education requirements established by the Department regarding the
15 management and operation of an assisted living residence.

16 (c) The Department shall replace any certificate that is lost, destroyed, or
17 mutilated subject to rules established by the Department.

18 **"§ 90-288.16. Certification by reciprocity.**

19 The Department may grant, upon application, a certificate to a person who holds a
20 valid certificate as an assisted living community administrator issued by another state if,
21 in the Department's determination, the standards of competency for the certificate are
22 substantially equivalent to those in this State.

23 **"§ 90-288.17. Posting certificates.**

24 Every person issued a certificate under this Article shall display the certificate
25 prominently in the assisted living residence where the person works.

26 **"§ 90-288.18. Adverse action on a certificate.**

27 (a) Subject to subsection (b) of this section, the Department shall have the
28 authority to deny a new or renewal application for a certificate, and to amend, recall,
29 suspend, or revoke an existing certificate upon a determination that there has been a
30 substantial failure to comply with the provisions of this Article or any rules promulgated
31 under this Article.

32 (b) The provisions of Chapter 150B of the General Statutes shall govern all
33 administrative action and judicial review in cases where the Department has taken action
34 as described in subsection (a) of this section. A petition for a contested case shall be filed
35 within 20 days after the Department mails the certificate holder a notice of its decision to
36 deny a renewal application, or to recall, suspend, or revoke an existing certificate.

37 **"§ 90-288.19. Reporting requirement.**

38 The holder of a facility license issued pursuant to G.S. 131D-2 shall report any
39 incidents of suspected abuse, neglect, or exploitation of persons residing in an assisted
40 living residence by a person certified under this Article to the Health Care Personnel
41 Registry.

42 **"§ 90-288.20. Penalties.**

1 A person who serves as an assisted living administrator without first obtaining a
2 certificate from the Department is guilty of a Class 1 misdemeanor. Each act of unlawful
3 practice constitutes a distinct and separate offense."

4 Section 2. G.S. 131D-2(a)(1b) reads as rewritten:

5 "(1b) "Adult care home" is an assisted living residence in which the housing
6 management provides 24-hour scheduled and unscheduled personal care
7 services to two or more residents, either directly or, for scheduled needs,
8 through formal written agreement with licensed home care or hospice
9 agencies. Some licensed adult care homes provide supervision to
10 persons with cognitive impairments whose decisions, if made
11 independently, may jeopardize the safety or well-being of themselves or
12 others and therefore require supervision. Medication in an adult care
13 home may be administered by designated, trained staff. Adult care
14 homes that provide care to two to six unrelated residents are commonly
15 called family care homes. ~~Adult care homes and family care homes are~~
16 ~~subject to licensure by the Division of Facility Services."~~

17 Section 3. Notwithstanding the provisions of G.S. 90-288.14, as enacted in
18 Section 1 of this act, the Department shall prior to December 31, 1999, grant a certificate
19 to practice as an assisted living administrator to a person who has been actively engaged
20 as an assisted living administrator in this State for at least two years. Any person who
21 has been actively engaged as an assisted living administrator for less than two years shall
22 satisfactorily complete a written exam administered by the Department before issuance of
23 a license. The Department may refuse to certify a person as an assisted living
24 administrator if the person's compliance history review shows a pattern of noncompliance
25 with State law or otherwise demonstrates disregard for the health safety, and welfare of
26 residents in current or past facilities where the person has worked as an assisted living
27 administrator.

28 Section 4. This act becomes effective January 1, 2000.