

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 42\*  
Health Care Committee Substitute Adopted 6/1/05

Short Title: Home Care Changes.

(Public)

Sponsors:

Referred to:

February 3, 2005

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE HOME CARE AGENCY LICENSURE  
ACT AND TO ESTABLISH HOME CARE CLIENTS' RIGHTS AS  
RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON  
AGING.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 131E-140 reads as rewritten:

**"§ 131E-140. Rules and enforcement.**

(a) The Commission is authorized to adopt, amend and repeal all rules necessary for the implementation of this ~~Part~~ Part and Part 3A of Article 6 of this Chapter. Provided, these rules shall not extend, modify, or limit the licensing of individual health professionals by their respective licensing boards; nor shall these rules in any way be construed to extend the appropriate scope of practice of any individual health care provider.

(a1) The Commission shall adopt rules that recognize the different types of home care services and shall adopt specific requirements for the provision of each type of home care service.

(a2) The Commission shall 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.

(a3) The Commission shall adopt rules defining the scope of permissible advertising and promotional practice by home care agencies.

(b) The Department shall enforce the rules adopted or amended by the Commission with respect to home care agencies."

**SECTION 2.** Article 6 of Chapter 131E of the General Statutes is amended by adding a new Part to read:

"Part 3A. Home Care Clients' Bill of Rights.

**"§ 131E-144.1. Legislative intent.**

1        It is the intent of the General Assembly to support an individual's desire to live at  
2 home and receive home care services.

3 **"§ 131E-144.2. Definitions.**

4        Unless otherwise specified, the definitions that are provided in Part 3 of Article 6 of  
5 this Chapter apply in this Part.

6 **"§ 131E-144.3. Declaration of home care clients' rights.**

7        Each client of a home care agency shall have the following rights:

- 8            (1) To be informed and participate in his or her plan of care.
- 9            (2) To be treated with respect, consideration, dignity, and full recognition  
10 of his or her individuality and right to privacy.
- 11           (3) To receive care and services that are adequate, appropriate, and in  
12 compliance with relevant federal and State laws and rules and  
13 regulations.
- 14           (4) To voice grievances about care and not be subjected to discrimination  
15 or reprisal for doing so.
- 16           (5) To have his or her personal and medical records kept confidential and  
17 not be disclosed without appropriate written consent.
- 18           (6) To be free of mental and physical abuse, neglect, and exploitation.
- 19           (7) To receive a written statement of services provided by the agency and  
20 the charges for these services.
- 21           (8) To be informed of the process for acceptance and continuance of  
22 service and eligibility determination.
- 23           (9) To accept or refuse services.
- 24           (10) To be informed of the agency's on-call service.
- 25           (11) To be informed of supervisory accessibility and availability.
- 26           (12) To be advised of the agency's procedures for discharge.
- 27           (13) To receive a reasonable response to his or her requests of the agency.
- 28           (14) To be notified within 10 days when the agency's license has been  
29 revoked, suspended, canceled, annulled, withdrawn, recalled, or  
30 amended.

31 **"§ 131E-144.4. Notice to client.**

32        (a) During the agency's initial evaluation visit or before furnishing services, a  
33 home care agency shall provide each client with the following:

- 34            (1) A copy of the declaration of home care clients' rights.
- 35            (2) The address and telephone number for information, questions, or  
36 complaints about services provided by the agency.
- 37            (3) The address and telephone number of the section of the Department of  
38 Health and Human Services responsible for the enforcement of the  
39 provisions of this Part.
- 40            (4) The address and telephone number of the county social services  
41 department.

42        (b) Receipts for the declaration of home care clients' rights and contact  
43 information required in this section shall be signed by the client and shall be retained in  
44 the agency's files.

1 **"§ 131E-144.5. Implementation.**

2 Responsibility for implementing the provisions of this Part shall rest with the agency  
3 director. Each agency shall provide appropriate training to implement this Part.

4 **"§ 131E-144.6. Enforcement and investigation.**

5 (a) The Department of Health and Human Services shall be responsible for the  
6 provisions of this Part. The Department shall investigate complaints made to it and reply  
7 within a reasonable period of time, not to exceed 60 days.

8 (a1) When the Department of Health and Human Services receives a complaint  
9 alleging a violation of the provisions of this Part pertaining to client care or client  
10 safety, the Department shall initiate an investigation as follows:

11 (1) Immediately upon receipt of the complaint if the complaint alleges a  
12 life-threatening situation.

13 (2) Within 24 hours if the complaint alleges abuse of a client as defined by  
14 G.S. 131D-20(1).

15 (3) Within 48 hours if the complaint alleges neglect of a client as defined  
16 by G.S. 131D-20(8).

17 (4) Within two weeks in all other situations.

18 The investigation shall be completed within 30 days. The requirements of this  
19 section are in addition to and not in lieu of any investigatory and reporting requirements  
20 for health care personnel pursuant to Article 15 of this Chapter, or for adult protective  
21 services pursuant to Article 6 of Chapter 108A of the General Statutes.

22 (b) A home care agency shall investigate, within 72 hours, complaints made to  
23 the agency by a home care client or the client's family and must document both the  
24 existence of the complaint and the resolution of the complaint.

25 **"§ 131E-144.7. Confidentiality.**

26 (a) The Department of Health and Human Services is authorized to inspect home  
27 care clients' medical records maintained at the agency when necessary to investigate any  
28 alleged violation of this Part.

29 (b) The Department shall maintain the confidentiality of all persons who register  
30 complaints with the Department and of all medical records inspected by the  
31 Department. A person who has filed a complaint shall have access to information about  
32 a complaint investigation involving a specific home care client if written authorization  
33 is obtained from the client or legal representative."

34 **SECTION 3.** The Department of Health and Human Services shall study  
35 whether there are any additional "health care facilities" and "health care personnel" that  
36 are employed in health care settings that should be contained in the Health Care  
37 Personnel Registry and listed in G.S. 131E-256. The Department shall report its  
38 findings and recommendations to the North Carolina Study Commission on Aging by  
39 December 1, 2005.

40 **SECTION 4.** Section 2 of this act becomes effective January 1, 2006. The  
41 remainder of this act is effective when it becomes law.