

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 964
Committee Substitute Favorable 5/10/07
Committee Substitute #2 Favorable 7/24/07
Senate Health Care Committee Substitute Adopted 6/12/08
Senate Finance Committee Substitute Adopted 7/15/08

Short Title: Expand Definition of Home Care Services.

(Public)

Sponsors:

Referred to:

March 22, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO EXPAND THE DEFINITION OF HOME CARE SERVICES TO
3 INCLUDE IN-HOME COMPANION, SITTER, AND RESPITE CARE SERVICES
4 PROVIDED TO AN INDIVIDUAL AND TO INCREASE THE ANNUAL
5 LICENSE FEE FOR HOME CARE AGENCIES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 131E-136 reads as rewritten:

8 **"§ 131E-136. Definitions.**

9 As used in this Part, unless otherwise specified:

10 (1) "Commission" means the North Carolina Medical Care Commission.

11 (1a) "Geographic service area" means the geographic area in which a
12 licensed agency provides home care services.

13 (2) "Home care agency" means a private or public organization that
14 provides home care services.

15 (2a) "Home care agency director" means the person having administrative
16 responsibility for the operation of the licensed agency site.

17 (2b) "Home care client" means an individual who receives home care
18 services.

19 (3) "Home care services" means any of the following services and directly
20 related medical supplies and appliances, which are provided to an
21 individual in a place of temporary or permanent residence used as an
22 individual's home:

23 a. Nursing care provided by or under the supervision of a
24 registered ~~nurse~~; nurse.

25 b. Physical, occupational, or speech therapy, when provided to an
26 individual who also is receiving nursing services, or any other

1 of these therapy services, in a place of temporary or permanent
2 residence used as the individual's ~~home~~; home.

3 c. ~~Medical social services~~; services.

4 d. In-home aide services that involve hands-on care to an
5 ~~individual~~; individual.

6 e. Infusion nursing ~~services~~; and services.

7 f. Assistance with pulmonary care, pulmonary rehabilitation or
8 ventilation.

9 g. In-home companion, sitter, and respite care services provided to
10 an individual.

11 h. Homemaker services provided in combination with in-home
12 companion, sitter, respite, or other home care services.

13 The term does not include: health promotion, preventative health and
14 community health services provided by public health departments;
15 maternal and child health services provided by public health
16 departments, by employees of the Department of Health and Human
17 Services under G.S. 130A-124, or by developmental evaluation centers
18 under contract with the Department of Health and Human Services to
19 provide services under G.S. 130A-124; hospitals licensed under
20 Article 5 of Chapter 131E of the General Statutes when providing
21 follow-up care initiated to patients within six months after their
22 discharge from the hospital; facilities and programs operated under the
23 authority of G.S. 122C and providing services within the scope of
24 G.S. 122C; schools, when providing services pursuant to Article 9 of
25 Chapter 115C; the practice of midwifery by a person licensed under
26 Article 10A of Chapter 90 of the General Statutes; hospices licensed
27 under Article 10 of Chapter 131E of the General Statutes when
28 providing care to a hospice patient; an individual who engages solely
29 in providing his own services to other individuals; incidental health
30 care provided by an employee of a physician licensed to practice
31 medicine in North Carolina in the normal course of the physician's
32 practice; or nursing registries if the registry discloses to a client or the
33 client's responsible party, before providing any services, that (i) it is
34 not a licensed home care agency, and (ii) it does not make any
35 representations or guarantees concerning the training, supervision, or
36 competence of the personnel provided. The term sitter does not include
37 child care facilities licensed in accordance with Chapter 110 of the
38 General Statutes. The term respite care does not include facilities or
39 services licensed in accordance with Chapter 122C of the General
40 Statutes. The terms in-home companion, sitter, homemaker, and
41 respite care services do not include (i) services certified or otherwise
42 overseen by the Department as not providing personal care or (ii)
43 services administered on a voluntary basis for which there is not

1 reimbursement from the recipient or anyone acting on the recipient's
2 behalf.

- 3 (4) "Home health agency" means a home care agency which is certified to
4 receive Medicare and Medicaid reimbursement for providing nursing
5 care, therapy, medical social services, and home health aide services
6 on a part-time, intermittent basis as set out in G.S. 131E-176(12), and
7 is thereby also subject to Article 9 of Chapter 131E."

8 **SECTION 2.** G.S. 131E-138 reads as rewritten:

9 **"§ 131E-138. Licensure requirements.**

10 (a) No person or governmental unit shall operate a home care agency without a
11 license obtained from the Department. Nothing in this Part shall be construed to extend
12 or modify the licensing of individual health professionals by the licensing boards for
13 their professions or to create any new professional license category.

14 (b) Repealed by Session Laws 1991, c. 59, s. 1.

15 (c) An application for a license shall be available from the Department, and each
16 application filed with the Department shall contain all information requested by the
17 Department. A license shall be granted to the applicant upon a determination by the
18 Department that the applicant has complied with the provisions of this Part and the rules
19 promulgated by the Commission under this Part. The Department shall charge the
20 applicant a nonrefundable annual license fee in the amount of ~~three hundred fifty dollars~~
21 ~~(\$350.00)~~ four hundred dollars (\$400.00).

22 (d) The Department shall renew the license in accordance with the rules of the
23 Commission.

24 (e) Each license shall be issued only for the premises and persons named in the
25 license and shall not be transferable or assignable except with the written approval of
26 the Department.

27 (f) The license shall be posted in a conspicuous place on the licensed premises.

28 (g) The Commission shall adopt rules to ensure that a home care agency shall be
29 deemed to meet the licensure requirements and issued a license without further review
30 or inspection if: (i) the agency is already certified or accredited by the Joint Commission
31 on Accreditation of Health Care Organizations, National League for Nursing, National
32 Home Caring Council, North Carolina Accreditation Commission for In-Home Aide
33 Services, or other entities recognized by the Commission and (ii) the agency is certified
34 or accredited for all of the home care services that it provides; or (iii) in the case of
35 continuing care retirement communities licensed by the North Carolina Department of
36 Insurance under Article 64 of Chapter 58 which also have nursing beds licensed by the
37 Department of Health and Human Services under Article 6 of Chapter 131E, the
38 Department certifies, as part of its licensure review or survey of the nursing beds, that
39 the facility also meets all of the rules and regulations adopted by the Commission
40 pursuant to this Part. The Department may, at its discretion, determine the frequency
41 and extent of the review and inspection of home health agencies already certified as
42 meeting federal requirements, but not more frequently than on an annual basis for
43 routine reviews."

- 1 **SECTION 3.** The North Carolina Medical Care Commission shall adopt
2 rules to implement Section 1 of this act.
- 3 **SECTION 4.** Section 1 of this act becomes effective January 1, 2010.
4 Section 2 of this act becomes effective January 1, 2009. The remainder of this act is
5 effective when it becomes law.