

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 512

Short Title: Assisted Living Administrators.

(Public)

Sponsors: Representatives Clary; Arnold, Bowie, Brown, Buchanan, Cansler, Carpenter, Creech, Culp, Davis, Decker, Gardner, Gray, Hiatt, Hill, Kiser, McComas, Melton, Mosley, Rayfield, Russell, Sherill, Starnes, Thompson, and G. Wilson.

Referred to: Finance.

March 22, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO LICENSE ASSISTED LIVING RESIDENCE ADMINISTRATORS.

3 The General Assembly of North Carolina enacts:

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

6 **"ARTICLE 20A.**

7 **"ASSISTED LIVING RESIDENCE ADMINISTRATOR ACT.**

8 **"§ 90-288.10. Title.**

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

10 **"§ 90-288.11. Purpose.**

11 There are a number of assisted living residences located within the State. The
12 residents of these facilities require daily care to attend to their physical, mental, and
13 emotional needs. The administrators of assisted living residences are responsible for the
14 care of these patients. Therefore, licensure of assisted living residence administrators is
15 necessary to ensure adequate levels of care across the State and to protect public health,
16 safety, and welfare.

17 **"§ 90-288.12. License required.**

1 No person shall perform or offer to perform services as an assisted living residence
2 administrator or as a supervisor-in-charge unless the person has been licensed under the
3 provisions of this Article.

4 **"§ 90-288.13. Definitions.**

5 The following definitions apply in this Article:

- 6 (1) Administrator-in-training. – An individual who serves a training period
7 under the supervision of a preceptor.
- 8 (2) Assisted living residence. – An institution or facility that is defined in
9 G.S. 131D-2(a)(1d), whether proprietary or nonprofit. The term
10 includes institutions or facilities owned or administered by the federal or
11 State government or any agency or political subdivision of the federal or
12 State government.
- 13 (3) Assisted living residence administrator. – An individual licensed by the
14 Board to operate, administer, manage, and supervise an assisted living
15 residence or to share in the performance of these duties with another
16 person who has been licensed by the Board.
- 17 (4) Board. – The North Carolina Board of Examiners for Assisted Living
18 Residence Administrators.
- 19 (5) Preceptor. – An individual who is licensed by the Board as an assisted
20 living residence administrator and who meets the requirements
21 established by the Board to serve as a supervisor of administrators-in-
22 training.
- 23 (6) Supervisor-in-charge. – An individual who is licensed by the Board (i)
24 to perform management responsibilities in an assisted living residence
25 during the absence of a licensed assisted living residence administrator
26 or (ii) to perform specific management responsibilities in an assisted
27 living residence on a daily basis.

28 **"§ 90-288.14. North Carolina Board of Examiners for Assisted Living Residence**
29 **Administrators.**

30 (a) Composition and Terms. – The North Carolina Board of Examiners for
31 Assisted Living Residence Administrators is created. The Board shall consist of nine
32 members who shall serve staggered terms. The initial Board members shall be appointed
33 as follows:

- 34 (1) The General Assembly, upon the recommendation of the President Pro
35 Tempore of the Senate, shall appoint three members. One member shall
36 be an owner of an assisted living residence or actively engaged in the
37 management of such a residence and shall serve for a term of five years.
38 One member shall be an employee of the Department of Health and
39 Human Services and shall serve for a term of four years. One member
40 shall represent the public and shall serve for a term of three years.
- 41 (2) The General Assembly, upon the recommendation of the Speaker of the
42 House of Representatives, shall appoint three members. Two of the
43 members shall be either an owner of an assisted living residence or

1 actively engaged in the management of such a residence. One of these
2 members shall serve for a term of five years, and one shall serve for a
3 term of four years. One member shall be employed as an educator and
4 shall serve for a term of three years.

- 5 (3) The Governor shall appoint three members. Two of the members shall
6 be either an owner of an assisted living residence or actively engaged in
7 the management of such a residence. One of these members shall serve
8 for a term of five years, and one shall serve for a term of four years.
9 One member shall represent the public and shall serve for a term of
10 three years.

11 Upon the expiration of the terms of the initial Board members, each member shall be
12 appointed for a term of three years and shall serve until a successor is appointed. No
13 member may serve more than two consecutive terms.

14 (b) Qualifications. – All members of the Board shall be residents of this State at
15 the time of appointment and at all times during their term on the Board. The public
16 members of the Board shall not be employed as an assisted living residence
17 administrator, have a financial interest in an assisted living residence, or be the spouse of
18 a person who is so employed or has such an interest.

19 (c) Vacancies. – A vacancy shall be filled in the same manner as the original
20 appointment, except that all unexpired terms in seats appointed by the General Assembly
21 shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve
22 the remainder of the unexpired term and until their successors have been duly appointed
23 and qualified.

24 (d) Removal. – The Board may remove any of its members for neglect of duty,
25 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
26 as a licensee shall be disqualified from participating in the official business of the Board
27 until the charges have been resolved.

28 (e) Compensation. – Each member of the Board shall receive per diem and
29 reimbursement for travel and subsistence as provided in G.S. 93B-5.

30 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other
31 officers the Board considers necessary to carry out the purposes of this Article. All
32 officers shall be elected annually by the Board for one-year terms and shall serve until
33 their successors are elected and qualified.

34 (g) Meetings. – The Board shall hold at least two meetings each year to conduct
35 business and to review the standards and rules for issuing licenses under this Article. The
36 Board shall adopt rules governing the calling, holding, and conducting of regular and
37 special meetings. A majority of Board members shall constitute a quorum.

38 **"§ 90-288.15. Powers and duties of the Board.**

39 The Board shall have the power and duty to:

- 40 (1) Administer and enforce the provisions of this Article.
41 (2) Adopt rules to administer and enforce the provisions of this Article.
42 (3) Examine and determine the qualifications and fitness of applicants for
43 licensure and renewal of licensure.

- 1 (4) Issue, renew, deny, suspend, or revoke licenses and conduct disciplinary
2 actions authorized by this Article.
- 3 (5) Set fees for licensure, licensure renewal, and other services necessary to
4 carry out the provisions of this Article.
- 5 (6) Establish and approve continuing education requirements for persons
6 licensed under this Article.
- 7 (7) Receive and investigate complaints from members of the public.
- 8 (8) Conduct investigations for the purpose of determining whether
9 violations of this Article or grounds for disciplining licensees exist.
- 10 (9) Conduct administrative hearings in accordance with Article 3 of Chapter
11 150B of the General Statutes.
- 12 (10) Maintain a record of all proceedings conducted by the Board and make
13 available to licensees and other concerned parties an annual report of all
14 Board action.
- 15 (11) Maintain a list of all persons licensed under this Article. The list shall
16 contain the names and addresses of all licensees and any additional
17 information that the Board considers necessary.
- 18 (12) Conduct a continuing study of assisted living residences and assisted
19 living residence administrators for the purpose of improving standards
20 for licensure.
- 21 (13) Develop an administrator-in-training program to ensure that assisted
22 living residence administrators have adequate training prior to licensure.
- 23 (14) Determine the qualifications and fitness of preceptors.
- 24 (15) Employ and fix the compensation of personnel that the Board considers
25 necessary to carry out the provisions of this Article and incur other
26 expenses necessary to perform the duties of the Board.
- 27 (16) Adopt and publish a code of ethics.
- 28 (17) Adopt a seal containing the name of the Board for use on all licenses
29 and official reports issued by the Board.

30 **"§ 90-288.16. Assisted living residence administrator license.**

31 An applicant shall be licensed as an assisted living residence administrator if the
32 applicant meets all of the following qualifications:

- 33 (1) Is at least 18 years old.
- 34 (2) Is of good moral character.
- 35 (3) Has no physical or mental disabilities that would hinder the applicant's
36 ability to perform the duties of an assisted living residence
37 administrator.
- 38 (4) Successfully completes the equivalent of two years of coursework at an
39 accredited college or university or has a combination of education and
40 experience as approved by the Board.
- 41 (5) Successfully completes at least 120 hours of study in courses prescribed
42 by the Board to give instruction in areas related to assisted living
43 residences.

1 (6) Successfully completes an administrator-in-training program as
2 prescribed by the Board.

3 (7) Successfully completes an examination administered by the Board or
4 the Board's designee.

5 (8) Pays the required fee established pursuant to G.S. 90-288.19.

6 **"§ 90-288.17. Licensure by reciprocity.**

7 The Board may grant, upon application and payment of proper fees, a license to a
8 person who holds a valid license as an assisted living residence administrator issued by
9 another state if, in the Board's determination, the standards of competency for the license
10 are substantially equivalent to those in this State.

11 **"§ 90-288.18. Supervisor-in-charge license.**

12 An applicant shall be licensed as a supervisor-in-charge if the applicant meets all of
13 the following qualifications:

14 (1) Is at least 18 years old.

15 (2) Is of good moral character.

16 (3) Has no physical or mental disabilities that would hinder the applicant's
17 ability to perform the duties of a supervisor-in-charge.

18 (4) Submits to the Board three letters of reference, at least one of which
19 shall be from a previous employer.

20 (5) Submits proof of employment as a supervisor-in-charge on or before
21 December 31, 1999, or proof that the person has attained a high school
22 diploma or the equivalent.

23 (6) Has demonstrated to the assisted living residence administrator at the
24 facility where the applicant will be employed that the applicant
25 possesses the skills to perform the duties of a supervisor-in-charge.

26 (7) Pays the required fee established pursuant to G.S. 90-288.19.

27 **"§ 90-288.19. Fees.**

28 The Board shall establish fees not exceeding the following amounts:

29 (1) Administrator examination \$200.00

30 (2) Administrator license 250.00

31 (3) Administrator duplicate license 25.00

32 (4) Administrator on inactive status 25.00

33 (5) Renewal of administrator license 250.00

34 (6) Training and continuing education 250.00

35 (7) Certifying continuing education courses 25.00

36 (8) Administrator-in-training fee 00.00

37 (9) Supervisor-in-charge license 25.00

38 (10) Renewal of supervisor-in-charge license 25.00

39 (11) Late fee 00.00

40 (12) Reinstatement fee 00.00.

41 **"§ 90-288.20. Custody and use of funds.**

1 All fees payable to the Board shall be deposited in the name of the Board in a
2 financial institution designated by the Board and shall be used only to pay expenses
3 incurred by the Board in administering and enforcing this Article.

4 **"§ 90-288.21. Issuance, renewal, and replacement of licenses.**

5 (a) The Board shall issue a license, upon payment of the proper fee, to any
6 applicant who has satisfactorily met the requirements of this Article as administered by
7 the Board. The license shall show the full name of the person and an identification
8 number and shall be signed by the chair and one other officer of the Board. A license
9 may not be transferred or assigned.

10 (b) All licenses shall expire on December 31 of the second year following
11 issuance. All applications for renewal shall be filed with the Board and shall be
12 accompanied by the renewal fee established pursuant to G.S. 90-288.19. A license that
13 has expired for failure to renew may be reinstated after the applicant pays the late fee and
14 reinstatement fee established pursuant to G.S. 90-288.19.

15 (c) The Board shall replace any license that is lost, destroyed, or mutilated subject
16 to rules established by the Board and upon the applicant paying the fee established
17 pursuant to G.S. 90-288.19.

18 **"§ 90-288.22. Posting licenses.**

19 Every person issued a license under this Article shall display the license prominently
20 in the assisted living residence where the person works.

21 **"§ 90-288.23. Suspension, revocation, and refusal to renew a license.**

22 The Board may deny or refuse to renew a license, suspend, or revoke any license for
23 any of the following:

- 24 (1) Violation of any provision of this Article or any rule adopted by the
25 Board.
- 26 (2) Violation of the standards or rules of the Social Services Commission as
27 they relate to assisted living residences.
- 28 (3) Obtaining or attempting to obtain a license by bribery or fraudulent
29 misrepresentation.
- 30 (4) Serving as an assisted living residence administrator without a license
31 issued by the Board.
- 32 (5) Transferring or assigning a license issued by the Board.
- 33 (6) Paying or offering to pay to another a commission or other thing of
34 value for the procurement of patients desiring assisted living services.
- 35 (7) Having been convicted of or pled guilty or no contest to a crime that
36 indicates that the person is unfit to serve as an assisted living residence
37 administrator.
- 38 (8) Gross malpractice or gross incompetency as determined by the Board.
- 39 (9) Advertising by means of knowingly false or deceptive statements.
- 40 (10) Permitting the unauthorized disclosure of patient information.
- 41 (11) Discriminating against residents or employees on account of race, sex,
42 religion, color, or national origin.

43 **"§ 90-288.24. Penalties.**

1 A person who violates any of the provisions of this Article is guilty of a Class 1
2 misdemeanor. Each act of unlawful practice constitutes a distinct and separate offense."

3 Section 2. Article 1 of Chapter 114 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 114-4.2H. Employment of attorney for the Board of Examiners for Assisted**
6 **Living Residence Administrators.**

7 The Attorney General is authorized to designate from the Attorney General's staff an
8 attorney to specialize in the law of the elderly. The attorney designated shall serve as the
9 advisor to the North Carolina Board of Examiners for Assisted Living Residence
10 Administrators."

11 Section 3. G.S. 131D-2(a) reads as rewritten:

12 "(a) The following definitions ~~will apply in the interpretation of this section:~~

13 (1) ~~"Abuse" means the Abuse.~~ – The willful or grossly negligent infliction of
14 physical pain, injury or mental anguish, unreasonable confinement, or
15 the willful or grossly negligent deprivation by the administrator or staff
16 of an adult care home of services which are necessary to maintain
17 mental and physical health.

18 (1a) ~~"Administrator" means a person approved by the Department of Human~~
19 ~~Resources who has the responsibility for the total operation of a licensed~~
20 ~~domiciliary home.~~ Administrator. – An individual licensed under Article
21 20A of Chapter 90 of the General Statutes.

22 (1b) ~~"Adult care home" is an Adult care home.~~ – An assisted living residence in
23 which the housing management provides 24-hour scheduled and
24 unscheduled personal care services to two or more residents, either
25 directly or, for scheduled needs, through formal written agreement with
26 licensed home care or hospice agencies. Some licensed adult care homes
27 provide supervision to persons with cognitive impairments whose
28 decisions, if made independently, may jeopardize the safety or well-
29 being of themselves or others and therefore require supervision.
30 Medication in an adult care home may be administered by designated,
31 trained staff. Adult care homes that provide care to two to six unrelated
32 residents are commonly called family care homes. Adult care homes and
33 family care homes are subject to licensure by the Division of Facility
34 Services.

35 (1c) ~~"Amenities" means services.~~ Amenities. – Services such as meals,
36 housekeeping, transportation, and grocery shopping that do not involve
37 hands-on personal care.

38 (1d) ~~"Assisted living residence" means any Assisted living residence.~~ – Any
39 group housing and services program for two or more unrelated adults,
40 by whatever name it is called, that makes available, at a minimum, one
41 meal a day and housekeeping services and provides personal care
42 services directly or through a formal written agreement with one or
43 more licensed home care or hospice agencies. The Department may

1 allow nursing service exceptions on a case-by-case basis. Settings in
2 which services are delivered may include self-contained apartment units
3 or single or shared room units with private or area baths. Assisted living
4 residences are to be distinguished from nursing homes subject to
5 provisions of G.S. 131E-102. Effective October 1, 1995, there are two
6 types of assisted living residences: adult care homes and group homes
7 for developmentally disabled adults. Effective July 1, 1996, there is a
8 third type, multiunit assisted housing with services.

9 (1e) ~~"Compensatory agent" means a~~ Compensatory agent. – A spouse, relative,
10 or other caretaker who lives with a resident and provides care to a
11 resident.

12 (2) ~~"Developmentally disabled adult" means a~~ Developmentally disabled adult.
13 – A person who has attained the age of 18 years and who has a
14 developmental disability defined as a severe, chronic disability of a
15 person ~~which:~~ that:

16 a. Is attributed to a mental or physical impairment or combination
17 of mental and physical ~~impairments;~~ impairments.

18 b. Is manifested before the person attains age ~~22;~~ 22.

19 c. Is likely to continue ~~indefinitely;~~ indefinitely.

20 d. Results in substantial functional limitations in three or more of
21 the following areas of major life activity: (i) self-care, (ii)
22 receptive and expressive language, (iii) learning, (iv) mobility,
23 (v) self-direction, (vi) capacity for independent living, and (vii)
24 economic ~~self-sufficiency;~~ self-sufficiency.

25 e. Reflects the person's need for a combination and sequence of
26 special, interdisciplinary, or generic care, treatment, or other
27 services which are of lifelong or extended duration and are
28 individually planned and coordinated.

29 (3) Repealed by Session Laws 1995, c. 535, s. 8.

30 (4) ~~"Exploitation" means the~~ Exploitation. – The illegal or improper use of an
31 aged or disabled resident or his resources for another's profit or
32 advantage.

33 (5) ~~"Family care home" means an~~ Family care home. – An adult care home
34 having two to six residents. The structure of a family care home may be
35 no more than two stories high and none of the aged or physically
36 disabled persons being served there may be housed in the upper story
37 without provision for two direct exterior ground-level accesses to the
38 upper story.

39 (6) ~~"Group home for developmentally disabled adults" means an~~ Group home for
40 developmentally disabled adults. – An adult care home which has two to
41 nine developmentally disabled adult residents.

42 (7) Repealed by Session Laws 1995, c. 535, s. 8.

- 1 (7a) ~~Effective July 1, 1996, "multiunit assisted housing with services" means an~~
2 Multiunit assisted housing with services. – An assisted living residence
3 in which hands-on personal care services and nursing services which are
4 arranged by housing management are provided by a licensed home care
5 or hospice agency, through an individualized written care plan. The
6 housing management has a financial interest or financial affiliation or
7 formal written agreement which makes personal care services accessible
8 and available through at least one licensed home care or hospice agency.
9 The resident has a choice of any provider, and the housing management
10 may not combine charges for housing and personal care services. All
11 residents, or their compensatory agents, must be capable, through
12 informed consent, of entering into a contract and must not be in need of
13 24-hour supervision. Assistance with self-administration of medications
14 may be provided by appropriately trained staff when delegated by a
15 licensed nurse according to the home care agency's established plan of
16 care. Multiunit assisted housing with services programs are required to
17 register with the Division of Facility Services and to provide a
18 disclosure statement. The disclosure statement is required to be a part of
19 the annual rental contract that includes a description of the following
20 requirements:
21 a. Emergency response ~~system;~~ system.
22 b. Charges for services ~~offered;~~ offered.
23 c. Limitations of ~~tenancy;~~ tenancy.
24 d. Limitations of ~~services;~~ services.
25 e. Resident ~~responsibilities;~~ responsibilities.
26 f. Financial/legal relationship between housing management and
27 home care or hospice ~~agencies;~~ agencies.
28 g. A listing of all home care or hospice agencies and other
29 community services in the ~~area;~~ area.
30 h. An appeals ~~process;~~ and process.
31 i. Procedures for required initial and annual resident screening and
32 referrals for services.
33 Continuing care retirement communities, subject to regulation by the
34 Department of Insurance under Chapter 58 of the General Statutes, are
35 exempt from the regulatory requirements for multiunit assisted housing
36 with services programs.
37 (7b) Multiunit registration. – The submission by a multiunit assisted housing
38 with services provider of a disclosure statement containing all of the
39 information as outlined in subdivision (7a) of this subsection.
40 (8) ~~"Neglect" means the~~ Neglect. – The failure to provide the services
41 necessary to maintain a resident's physical or mental health.

- 1 (9) ~~"Personal care services" means any~~ Personal care services. – Any hands-on
2 services allowed to be performed by In-Home Aides II or III as outlined
3 in Department rules.
- 4 (10) ~~"Registration" means the submission by a multiunit assisted housing~~
5 ~~with services provider of a disclosure statement containing all the~~
6 ~~information as outlined in subdivision (7a) of this subsection.~~
- 7 (11) ~~"Resident" means a~~ Resident. – A person living in an assisted living
8 residence for the purpose of obtaining access to housing and services
9 provided or made available by housing management."

10 Section 4. Notwithstanding the provisions of G.S. 90-288.16, as enacted in
11 Section 1 of this act, the Board may grant a license to practice as an assisted living
12 residence administrator to a person who is actively engaged as an assisted living
13 residence administrator and is registered with the Division of Facility Services on or
14 before December 31, 1999. The person shall pay the license fee established pursuant to
15 G.S. 90-288.19, as enacted in Section 1 of this act.

16 Section 5. There is appropriated from the General Fund to the North Carolina
17 Board of Examiners for Assisted Living Residence Administrators the sum of two
18 hundred fifty thousand dollars (\$250,000) for the 1999-2000 fiscal year for operating
19 expenses.

20 Section 6. Section 5 of this act becomes effective July 1, 1999. The remainder
21 of this act is effective when it becomes law.