

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1068**  
**Committee Substitute Favorable 4/23/01**  
**Senate Health Care Committee Substitute Adopted 6/21/01**

Short Title: Long-Term Care Facil./Quality of Care. (Public)

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Sponsors:

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Referred to:

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April 10, 2001

A BILL TO BE ENTITLED

1 AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN  
2 SERVICES TO STUDY ISSUES RELATING TO LONG-TERM CARE; AND TO  
3 DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO  
4 ESTABLISH A QUALITY IMPROVEMENT CONSULTATION PROGRAM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** The General Assembly recognizes that the imposition of  
7 penalties for deficiencies in meeting licensure requirements is not the exclusive method  
8 for ensuring quality of care in licensed adult care homes. The Department of Health and  
9 Human Services shall explore methods to improve and reward quality of care provided  
10 by adult care homes. In conducting this undertaking, the Department shall consider and  
11 report specifically its findings and recommendations on all of the following:

- 12 (1) Whether or not the licensure period and survey period for adult care  
13 homes are factors in providing quality care.
- 14 (2) Whether to cap allowable indirect costs for adult care homes similar to  
15 that imposed on nursing homes, but also allowing a higher capped  
16 direct rate of reimbursement in order to provide incentives for higher  
17 quality direct care to residents.
- 18 (3) Whether a different approach should be adopted for setting  
19 reimbursement rates for adult care homes that would replace the  
20 current "State average" method. The purpose of the different approach  
21 is to provide incentives to facilities to operate more efficiently and  
22 reinvest resources saved from efficiency in higher quality care.
- 23 (4) Aspects of the quality assessment/monitoring process that should be  
24 changed or modified under State authority.

25 **SECTION 1.(b)** The Department shall report the status of its activities under  
26 subsection (a) of this section to the North Carolina Study Commission on Aging not  
27 later than October 1, 2001. Not later than March 1, 2002, the Department shall submit  
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1 its final report to the North Carolina Study Commission on Aging and to the Senate  
2 Appropriations Committee on Health and Human Services and the House of  
3 Representatives Subcommittee on Health and Human Services. The final report shall  
4 include recommended legislation for consideration by the 2002 Regular Session of the  
5 2001 General Assembly.

6       **SECTION 1.(c)** The Department of Health and Human Services shall offer  
7 joint training of Division of Facility Services consultants, county DSS adult home  
8 specialists, and adult care home providers. The training shall be offered no fewer than  
9 two times per year, and subject matter of the training should be based on one or more of  
10 the 10 deficiencies cited most frequently in the State during the immediately preceding  
11 calendar year. The joint training shall be designed to reduce inconsistencies experienced  
12 by providers in the survey process, to increase objectivity by DFS consultants and DSS  
13 specialists in conducting surveys, and to promote a higher degree of understanding  
14 between facility staff and DFS consultants and DSS specialists in what is expected  
15 during the survey process.

16       **SECTION 1.(d)** The Department of Health and Human Services shall  
17 develop an Adult Care Home Quality Improvement Consultation Program. The purpose  
18 of the program is to assist providers in the development of quality improvement plans  
19 for each facility. The Adult Care Home Quality Improvement Consultation Program  
20 shall be developed in consultation with the Division of Facility Services and  
21 representatives of facilities and programs. The Department shall use funds appropriated  
22 in its continuation budget for this purpose for the 2001-2002 and 2002-2003 fiscal  
23 years. The Department shall report the status of its activities under this section to the  
24 North Carolina Study Commission on Aging on October 1, 2001, and March 1, 2002.

25       **SECTION 1.(e)** The Department of Health and Human Services shall  
26 convene an Adult Care Home Quality of Standards Work Group to explore alternatives  
27 to existing oversight and survey practices that will ensure quality in adult care homes.  
28 The Work Group shall do the following:

- 29       (1) Define and provide guidance on terms applicable in the survey and  
30 oversight process to ensure uniformity. Terms that should be defined  
31 and clarified include the following:
- 32       a. Substantial evidence.
  - 33       b. Imminent danger.
  - 34       c. Condition detrimental to health and safety.
  - 35       d. Hindrance of proper performance of duties.
  - 36       e. Alleged violation.
  - 37       f. Substantial failure to comply.
  - 38       g. Serious physical harm.
  - 39       h. Substantial risk that death or physical harm will occur.
  - 40       i. Present a direct threat to health and safety.
  - 41       j. Deficiency.
  - 42       k. Extent of violation.

1 l. Probability of death or serious harm.

2 m. Reasonable diligence.

3 The Department shall ensure that the definition and clarification of  
4 terms are included in basic and continuing survey training.

- 5 (2) Identify rules that impede the direct care of residents or prohibit  
6 resident choice and develop a proposal for repeal of those rules,  
7 including any necessary repeal of, or amendment to, current law that is  
8 the basis for the rule.

9 The Work Group shall consist of the Secretary of the Department of Health  
10 and Human Services or the Secretary's designee, the Assistant Secretary for Long Term  
11 Care, the Director of Division of Facility Services, and one representative from each of  
12 the following groups or programs: the Division of Facility Services of the Department  
13 of Health and Human Services, the North Carolina Assisted Living Association, Inc.,  
14 the North Carolina Association of Long Term Care Facilities, the North Carolina Long  
15 Term Care Ombudsman Program, the Adult Foster Care Association, Friends of  
16 Residents in Long Term Care, Division of Medical Assistance, Rate-Setting Section,  
17 Division of Social Services, Adult and Family Services Section, North Carolina  
18 Association of Nonprofit Homes for the Aging, North Carolina Hospital Association,  
19 North Carolina Institute of Medicine, and the North Carolina Association of Directors  
20 of Social Services.

21 **SECTION 1.(f)** The Department of Health and Human Services shall study  
22 the cost to the State of reducing the county share of State/County Special Assistance  
23 from fifty percent (50%) to twenty-five percent (25%), phased in over a five-year  
24 period. The Department shall report its findings to the North Carolina Study  
25 Commission on Aging, the House of Representatives Appropriations Subcommittee on  
26 Health and Human Services, and the Senate Appropriations Committee on Health and  
27 Human Services not later than October 1, 2001.

28 **SECTION 1.(g)** The Department of Health and Human Services shall study  
29 alternative ways to reimburse adult care homes for the costs of residents residing in  
30 special care units, taking into account the particular needs of those residents. The  
31 Department shall report its findings and recommendations not later than March 1, 2002,  
32 to the North Carolina Study Commission on Aging, the House of Representatives  
33 Appropriations Subcommittee on Health and Human Services, and the Senate  
34 Appropriations Committee on Health and Human Services.

35 **SECTION 1.(h)** The Department of Health and Human Services shall study  
36 and make recommendations on statutory changes that would be necessary in order to  
37 delineate the various populations in facilities currently regulated as adult care homes  
38 according to the particular needs of those populations. The Department shall report its  
39 findings and recommendations to the North Carolina Study Commission on Aging not  
40 later than March 1, 2002.

41 **SECTION 2.(a)** The Department of Health and Human Services shall  
42 establish a Skilled Nursing Facility Quality Improvement Consultation Project to assist

1 providers in the development of quality improvement plans for each long-term care  
2 facility and program that offers skilled nursing services to the public. In order to avoid  
3 conflict with federal regulations, the Department shall locate the project in a section of  
4 the Division of Facility Services other than the Licensure and Certification Section.  
5 Project staff shall include nurses who have previous experience in long-term care. Staff  
6 shall be available to all licensed nursing facilities and, upon request of the facility, shall  
7 provide on-site consultation in at least the following areas:

- 8 (1) Analysis of recent survey results in order to assist the facility with its  
9 efforts to correct problems or deficiencies identified by the survey.
- 10 (2) Training for in-house quality improvement programs.
- 11 (3) Specific area or issues of concern raised by the facility.
- 12 (4) Best practices information.

13 The Department may contract with a private entity to assist in the implementation of the  
14 project.

15 **SECTION 2.(b)** The Department of Health and Human Services shall offer  
16 joint training of survey team members and nursing home providers. The training shall  
17 be offered no fewer than two times per year, and subject matter of the training should be  
18 based on one or more of the 10 deficiencies cited most frequently in the State during the  
19 immediately preceding calendar year. The joint training shall be designed to reduce  
20 inconsistencies experienced by providers in the survey process, to increase objectivity  
21 by survey team members in conducting surveys, and to promote a higher degree of  
22 understanding between facility staff and survey team members in what is expected  
23 during the survey process.

24 **SECTION 2.(c)** The Department of Health and Human Services shall  
25 require survey team members who have no previous nursing home experience to spend  
26 part of their basic training in a nursing home observing operations of the nursing home.  
27 On-site training should be designed to provide the survey team member with experience  
28 in the actual operation of a nursing facility outside of the survey process and to achieve  
29 a general understanding of the following facility functions: administration, nursing,  
30 personal care services, and dietary services. On-site training requirement shall be for a  
31 minimum of three days and must be completed before the survey team member assumes  
32 survey work or oversight responsibilities. In addition to on-site training, at least fifty  
33 percent (50%) of the annual continuing education requirement of survey team members  
34 shall be in the subject area of geriatric care.

35 **SECTION 2.(d)** The Department of Health and Human Services shall  
36 convene a Skilled Nursing Facility Quality of Standards Work Group to explore  
37 alternatives to existing oversight and survey practices that will ensure quality in skilled  
38 nursing facilities. The Work Group shall do the following:

- 39 (1) Clarify and provide guidance on terms applicable in the survey and  
40 oversight process to ensure uniformity. Terms that should be clarified  
41 include "immediate jeopardy", "harm", "potential harm", "avoidable",

1 and "unavoidable". The Department shall ensure that clarification of  
2 terms is included in basic and continuing survey training.

3 (2) Identify rules that impede the direct care of patients and develop a  
4 proposal for repeal of those rules, including any necessary repeal of, or  
5 amendment to, current law that is the basis for the rule.

6 (3) Examine possible incentives for providers such as extended survey  
7 period, increased reimbursement rates, accreditation, and deemed  
8 status. The Work Group shall consider all available quality  
9 measurements in developing recommendations for incentives. The  
10 Work Group shall also identify changes in current law necessary to  
11 implement incentives.

12 (4) Explore aspects of quality assessment/monitoring that should be  
13 changed to facilitate improvements and determine if a waiver from the  
14 Health Care Financing Administration is necessary to implement  
15 innovative approaches to the delivery and monitoring of long-term  
16 care in this State.

17 The Work Group shall consist of representatives of the Division of Facility Services of  
18 the Department of Health and Human Services and the North Carolina Health Care  
19 Facilities Association.

20 **SECTION 2.(e)** The Department of Health and Human Services of the  
21 Department of Health and Human Services shall report to the Joint Legislative Health  
22 Care Oversight Committee and the North Carolina Study Commission on Aging on the  
23 status of implementation of this section. The report shall be submitted on October 1,  
24 2001, and March 1, 2002.

25 **SECTION 3.** This act becomes effective July 1, 2001.