

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 1777  
Committee Substitute Favorable 8/14/02  
Senate Health Care Committee Substitute Adopted 9/20/02**

Short Title: Sanitation Rules/Effective Date & Field Test. (Public)

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Sponsors:

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Referred to:

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July 17, 2002

A BILL TO BE ENTITLED

1 AN ACT TO DELAY THE EFFECTIVE DATE OF CERTAIN ADMINISTRATIVE  
2 RULES GOVERNING SANITATION OF HOSPITALS, NURSING HOMES,  
3 REST HOMES, AND OTHER INSTITUTIONS; TO PROVIDE FOR A FIELD  
4 TEST OF THOSE RULES; TO AUTHORIZE THE COMMISSION FOR HEALTH  
5 SERVICES TO ADOPT TEMPORARY AND PERMANENT RULES TO AMEND  
6 THOSE RULES; TO AUTHORIZE THE MEDICAL CARE COMMISSION TO  
7 ADOPT TEMPORARY AND PERMANENT RULES GOVERNING LICENSING  
8 OF FAMILY CARE HOMES AND HOMES FOR THE AGED AND INFIRM;  
9 AND TO REQUIRE THE SECRETARY OF HEALTH AND HUMAN SERVICES  
10 AND THE COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL  
11 DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO DEVELOP A  
12 PROCESS FOR EXPEDITING REVIEW OF REQUESTS FOR WAIVERS FROM  
13 RULES PERTAINING TO MENTAL HEALTH, DEVELOPMENTAL  
14 DISABILITIES, AND SUBSTANCE ABUSE SERVICES.  
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16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** Notwithstanding G.S. 150B-21.3(b), amendments to the  
18 following rules governing sanitation of hospitals, nursing homes, rest homes, and other  
19 institutions, adopted by the Commission for Health Services and approved by the Rules  
20 Review Commission on 18 October 2001, become effective 1 March 2003: 15A NCAC  
21 18A .1301 (Definitions), 15A NCAC 18A .1302 (Approval of Plans), 15A NCAC 18A  
22 .1304 (Inspections), 15A NCAC 18A .1305 (Grading Residential Care Facilities in  
23 Institutions), 15A NCAC 18A .1306 (Public Display of Grade Card), 15A NCAC 18A  
24 .1307 (Reinspections), 15A NCAC 18A .1308 (Approved Institutions), 15A NCAC 18A  
25 .1309 (Floors), 15A NCAC 18A .1310 (Walls and Ceilings), 15A NCAC 18A .1312  
26 (Toilet: Handwashing: Laundry: and Bathing Facilities), 15A NCAC 18A .1313 (Water  
27 Supply), 15A NCAC 18A .1314 (Drinking Water Facilities: Ice Handling), 15A NCAC  
28 18A .1315 (Liquid Wastes), 15A NCAC 18A .1316 (Solid Wastes), 15A NCAC 18A

1 .1317 (Vermin Control: Premises: Animal Maintenance), 15A NCAC 18A .1318  
2 (Miscellaneous), 15A NCAC 18A .1319 (Furnishings and Patient Contact Items), 15A  
3 NCAC 18A .1320 (Food Service Utensils and Equipment), 15A NCAC 18A .1322  
4 (Milk and Milk Products), 15A NCAC 18A .1323 (Food Protection), and 15A NCAC  
5 18A .1324 (Employees).

6 **SECTION 2.** Notwithstanding G.S. 150B-21.3(b), 15A NCAC 18A .1327  
7 (Incorporated Rules) adopted by the Commission for Health Services and approved by  
8 the Rules Review Commission on 18 October 2001 becomes effective 1 March 2003.

9 **SECTION 3.** Notwithstanding G.S. 150B-21.3(b), amendments to 15A  
10 NCAC 18A .1311 (Lighting, Ventilation and Moisture Control) and 15A NCAC 18A  
11 .1321 (Food Supplies) adopted by the Commission for Health Services and approved by  
12 the Rules Review Commission on 15 November 2001 become effective 1 March 2003.

13 **SECTION 4.** The Division of Environmental Health of the Department of  
14 Environment and Natural Resources, with the assistance of local health departments,  
15 shall field test the amended rules listed in Sections 1 through 3 of this act by conducting  
16 trial inspections of a representative sample of facilities subject to the amended rules  
17 throughout the State. Trial inspections under the amended rules shall be performed  
18 during the period 1 October 2002 through 1 February 2003 in conjunction with the  
19 regular inspection of the representative sample of facilities under rules in effect during  
20 the field test period. A facility that is subject to a trial inspection shall not be liable for  
21 an enforcement action for any violation of an amended rule that is observed during a  
22 trial inspection but may be liable for an enforcement action under rules in effect during  
23 the field test period. The purposes of the field test shall be to determine what  
24 expenditures, if any, will be required of facilities in order to comply with the amended  
25 rules and whether the amended rules will result in lower inspection grades for facilities.  
26 As a part of the field test, the Division shall also review the amended rules, giving  
27 particular attention to applicable federal regulations and to the incorporation by  
28 reference of any other rules or standards in the amended rules, to determine whether the  
29 amended rules will result in any duplication or conflict in applicable requirements or  
30 standards and whether the amended rules will result in duplicative or conflicting  
31 inspection or enforcement policies or procedures. The Division of Environmental  
32 Health shall compile and analyze field test data to determine whether any of the  
33 amended rules should be revised. The Division shall report the results of the field test  
34 required by this section, any recommendations to the Commission for Health Services  
35 regarding revisions to the amended rules, and the status of any recommended rule  
36 revisions to the Environmental Review Commission on or before 1 March 2003.

37 **SECTION 5.** The Division of Environmental Health of the Department of  
38 Environment and Natural Resources shall offer training to staff of facilities that are  
39 subject to the amended rules listed in Sections 1 through 3 of this act. Training shall be  
40 offered in the various regions of the State as appropriate and shall include information  
41 on the requirements of the amended rules, enforcement policies and procedures, and  
42 updated information as to any revisions to the amended rules that may be recommended  
43 as a result of the field test of the amended rules required by Section 4 of this act.

1           **SECTION 6.(a)** This act constitutes a recent act of the General Assembly  
2 within the meaning of G.S. 150B-21.1(a).

3           **SECTION 6.(b)** Notwithstanding Sections 1 through 3 of this act, the  
4 Commission for Health Services may adopt temporary and permanent rules to further  
5 delay the effective date of any of the rules listed in Sections 1 through 3 of this act. The  
6 Commission for Health Services may adopt temporary and permanent rules to revise  
7 any of the rules listed in Sections 1 through 3 of this act.

8           **SECTION 6.(c)** The Medical Care Commission may adopt temporary and  
9 permanent rules to amend Subchapter 42C (Licensing of Family Care Homes) and  
10 Subchapter 42D (Licensing of Homes for the Aged and Infirm) of Chapter 42  
11 (Individual and Family Support) of Title 10 (Department of Health and Human  
12 Services) of the North Carolina Administrative Code. Prior to the adoption of  
13 temporary rules under this subsection, the Commission shall:

- 14           (1) Consult with persons who may be interested in the subject matter of  
15 the temporary rule during the development of the text of the proposed  
16 temporary rule.
- 17           (2) Notify persons on the mailing list that the Commission maintains  
18 pursuant to G.S. 150B-21.2(d) of its intent to adopt a temporary rule.
- 19           (3) Publish a notice of intent to adopt a temporary rule in the North  
20 Carolina Register. The notice shall set out the text of the proposed  
21 temporary rule and include the name of the person to whom questions  
22 and written comment on the proposed rule may be submitted. The  
23 Commission shall accept written comment on the proposed temporary  
24 rule for at least 30 days after the notice of intent to adopt the  
25 temporary rule is published in the North Carolina Register.
- 26           (4) Hold at least one public hearing on the proposed temporary rule.

27           **SECTION 6.(d)** Notwithstanding 26 NCAC 2C .0102(11), the Commission  
28 for Health Services and the Medical Care Commission may adopt temporary rules as  
29 provided in this section until 1 July 2003.

30           **SECTION 7.(a)** For the purpose of promoting innovation and efficiency and  
31 improving quality of care in the implementation of mental health system reform, the  
32 Secretary of Health and Human Services, and the Commission for Mental Health,  
33 Developmental Disabilities, and Substance Abuse Services shall expedite the process  
34 for waiver of rules authorized under G.S. 122C-112.1 and G.S. 122C-114 as provided in  
35 this section.

36           **SECTION 7.(b)** If an area authority or county program requests a waiver of  
37 one or more rules adopted by the Secretary of Health and Human Services or by the  
38 Commission for Mental Health, Developmental Disabilities, and Substance Abuse  
39 Services in order to implement its business plan developed under G.S. 122C-115.2, then  
40 the Secretary shall review and approve or deny the request for waiver of one or more  
41 rules adopted by the Secretary within 10 days of receipt of the request for waiver. The  
42 Commission shall review and approve or deny the request for waiver of one or more  
43 rules adopted by the Commission not later than its next regularly scheduled meeting  
44 following receipt of the request. The waiver must comply with this section and with

1 rules governing the waiver of rules adopted under G.S. 122C-112.1 and G.S. 122C-114,  
2 except that if under the rules the time for review of the waiver is longer than the time  
3 required under this section, then this section applies. If the request for waiver is denied,  
4 the denial shall be in writing and shall state the grounds on which the denial is based.  
5 Appeals of denial of the waiver shall be in accordance with applicable rules adopted  
6 pursuant to G.S. 122C-112.1 and G.S. 122C-114. If the request for waiver is approved,  
7 the waiver shall be in effect for a period not to exceed three years or the period for  
8 which the business plan to which the waiver applies is in effect, whichever is shorter.  
9 Prior to considering, or presenting to the Commission for consideration, a request for  
10 waiver submitted pursuant to this section, the Secretary shall review the request to  
11 ensure that the waiver furthers the purposes of mental health reform, does not  
12 compromise quality of care, effectiveness, and efficiency in program administration and  
13 service delivery, and meets the requirements of the business plan under G.S.  
14 122C-115.2. Upon a finding by the Secretary that the request for waiver complies with  
15 this section, the request for waiver shall be reviewed in accordance with this section.

16 **SECTION 7.(c)** The Secretary shall report on the Department's activities  
17 under this section to the Legislative Oversight Committee on Mental Health,  
18 Developmental Disabilities, and Substance Abuse Services. The report shall be  
19 submitted by 1 October 2002 and annually thereafter.

20 **SECTION 8.** This act is effective when it becomes law. Section 7 of this act  
21 expires 1 July 2005.