

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

2

SENATE BILL 937
Health Care Committee Substitute Adopted 4/23/01

Short Title: C.O.N.-Adult Care Homes Regulated.

(Public)

Sponsors:

Referred to:

March 29, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE THE DEVELOPMENT OF ADULT CARE HOMES
3 UNDER THE CERTIFICATE OF NEED LAW.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 131E-175 reads as rewritten:

6 "§ 131E-175. Findings of fact.

7 The General Assembly of North Carolina makes the following findings:

8

...

9 (8) That because persons who have received exemptions under Section
10 11.9(a) of S.L. 2000-67, as amended, and under Section 11.69(b) of
11 S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212,
12 and as amended by Section 1 of S.L. 1999-135, have had sufficient
13 time to complete development plans and initiate construction of beds
14 in adult care homes.

15 (9) That because with the enactment of this legislation, beds allowed
16 under the exemptions noted above and pending development will
17 count in the inventory of adult care home beds available to provide
18 care to residents in the State Medical Facilities Plan.

19 (10) That because State and county expenditures provide support for nearly
20 three-quarters of the residents in adult care homes through the State
21 County Special Assistance program, and excess bed capacity increases
22 costs per resident day, it is in the public interest to promote efficiencies
23 in delivering care in those facilities by controlling and directing their
24 growth in an effort to prevent underutilization and higher costs and
25 provide appropriate geographical distribution."

26 SECTION 2. G.S. 131E-176 reads as rewritten:

27 "§ 131E-176. Definitions.

28 As used in this Article, unless the context clearly requires otherwise, the following
29 terms have the meanings specified:

1 ...
 2 (9b) "Health service facility" means a hospital; psychiatric facility;
 3 rehabilitation facility; ~~long term care facility; nursing home facility;~~
 4 adult care home; kidney disease treatment center, including
 5 freestanding hemodialysis units; intermediate care facility for the
 6 mentally retarded; home health agency office; chemical dependency
 7 treatment facility; diagnostic center; oncology treatment center;
 8 hospice, hospice inpatient facility, hospice residential care facility; and
 9 ambulatory surgical facility.

10 (9c) "Health service facility bed" means a bed licensed for use in a health
 11 service facility in the categories of (i) acute care beds; (ii) psychiatric
 12 beds; (iii) rehabilitation beds; (iv) nursing ~~care~~ home beds; (v)
 13 intermediate care beds for the mentally retarded; (vi) chemical
 14 dependency treatment beds; (vii) hospice inpatient facility beds; ~~and~~
 15 (viii) hospice residential care facility ~~beds;~~ beds; and (ix) adult care
 16 home beds.

17 ...
 18 (12a) "Adult care home" means a facility with seven or more beds licensed
 19 under G.S. 131D-2 or Chapter 131E of the General Statutes that
 20 provides residential care for aged or disabled persons whose principal
 21 need is a home which provides the supervision and personal care
 22 appropriate to their age and disability and for whom medical care is
 23 only occasional or incidental.

24 ...
 25 (14d) ~~"Long term care facility" means a health service facility whose bed~~
 26 ~~complement of health service facility beds is composed principally of~~
 27 ~~nursing care facility beds.~~

28 ...
 29 (17b) "Nursing home facility" means a health service facility whose bed
 30 complement of health service facility beds is composed principally of
 31 nursing home facility beds.

32"

33 **SECTION 3.** Section 11.69 of S.L. 1997-443, as amended by Section
 34 12.16C(a) of S.L. 1998-212, and as further amended by Section 1 of S.L. 1999-135 as
 35 amended by Section 11.9(a) of S.L. 2000-67, reads as rewritten:

36 "Section 11.69. (a) The General Assembly finds:

- 37 (1) That the cost of care for seventy percent (70%) of adult care home
 38 residents is paid by the State and the counties;
 39 (2) That the cost to the State for care for residents in adult care homes is
 40 substantial, and high vacancy rates in adult care homes further
 41 increases the cost of care;
 42 (3) That the proliferation of unnecessary adult care home beds results in
 43 costly duplication and underuse of facilities and may result in lower
 44 quality service; and

1 (4) That it is necessary to protect the general welfare and lives, health, and
2 property of the people of the State to slow temporarily licensure of
3 adult care home beds pending a finding of a more definitive means of
4 developing and maintaining the quality of adult care home beds so that
5 unnecessary costs to the State do not result, adult care home beds are
6 available where needed, and that individuals who need care in adult
7 care homes may have access to quality care.

8 (b) Effective until ~~September 30, 2001~~, December 31, 2001, the Department of
9 Health and Human Services shall not approve the addition of any adult care home beds
10 for any type home or facility in the State, except as follows:

11 (1) Plans submitted for approval prior to May 18, 1997, may continue to
12 be processed for approval;

13 (2) Plans submitted for approval subsequent to May 18, 1997, may be
14 processed for approval if the individual or organization submitting the
15 plan demonstrates to the Department that on or before August 25,
16 1997, the individual or organization purchased real property, entered
17 into a contract to purchase or obtain an option to purchase real
18 property, entered into a binding real property lease arrangement, or has
19 otherwise made a binding financial commitment for the purpose of
20 establishing or expanding an adult care home facility. An owner of real
21 property who entered into a contract prior to August 25, 1997, for the
22 sale of an existing building together with land zoned for the
23 development of not more than 50 adult care home beds with a
24 proposed purchaser who failed to consummate the transaction may,
25 after August 25, 1997, sell the property to another purchaser and the
26 Department may process and approve plans submitted by the purchaser
27 for the development of not more than 50 adult care home beds. It shall
28 be the responsibility of the applicant to establish, to the satisfaction of
29 the Department, that any of these conditions have been met;

30 (3) Adult care home beds in facilities for the developmentally disabled
31 with six beds or less which are or would be licensed under G.S. 131D
32 or G.S. 122C may continue to be approved;

33 (4) If the Department determines that the vacancy rate of available adult
34 care home beds in a county is fifteen percent (15%) or less of the total
35 number of available beds in the county as of August 26, 1997, and no
36 new beds have been approved or licensed in the county or plans
37 submitted for approval in accordance with subdivision (1) or (2) of this
38 section which would raise the vacancy rate above fifteen percent
39 (15%) in the county, then the department may accept and approve the
40 addition of beds in that county; or

41 (5) If a county board of commissioners determines that a substantial need
42 exists for the addition of adult care home beds in that county, the board
43 of commissioners may request that a specified number of additional
44 beds be licensed for development in their county. In making their

1 determination, the board of commissioners shall give consideration to
2 meeting the needs of Special Assistance clients. The Department may
3 approve licensure of the additional beds from the first facility that files
4 for licensure and subsequently meets the licensure requirements.

5 (b1) Any person who obtained an exemption under subsection (b) of this section
6 and has not obtained a license for the beds for which the exemption was granted shall no
7 longer be authorized to develop the beds, unless all of the following conditions are met:

8 (1) No later than June 1, 2002, the person granted the exemption shall
9 submit to the Department of Health and Human Services fully
10 executed copies of loan closing papers for a loan to the exempted
11 person or a letter from a certified public accountant which states that
12 liquid reserves have been placed in a separately identified account for
13 the exempted person, that document sufficient funding to cover the
14 entire capital cost of the project for which the exemption was granted.

15 (2) No later than December 1, 2002, the person granted the exemption
16 shall submit to the Department of Health and Human Services
17 documentation from the builder or architect that the foundation and
18 footings of the facility for which the exemption was granted have been
19 completed.

20 (3) No later than December 1, 2003, the person granted the exemption
21 shall submit to the Department of Health and Human Services a copy
22 of the certificate of occupancy for the facility for which the exemption
23 was granted from the local building inspector.

24 (c) The Department shall study the issue of high vacancy rates for adult care
25 home beds, including the impact of those vacancy rates on cost-effectiveness and
26 quality of care for the occupants of adult care homes and other facilities, and make
27 recommendations with respect to the need for establishing new procedures for
28 determining the State and county reimbursement amounts for Special Assistance
29 recipients, the need for the establishment of a certificate of need type process for adult
30 care homes, or any changes needed in the certificate of need process for any other
31 facilities to prevent high vacancy rates for adult care home beds. The Department also
32 shall study the issue of the availability of beds for Special Assistance clients and how
33 recent new bed development has impacted the availability, quality, and cost of beds
34 available for those clients. The Department shall report the results of its study, along
35 with the recommendations required by this section and any other proposals and
36 recommendations, to the Chairs of the House and Senate Appropriations Subcommittees
37 on Human Resources by February 1, 1998. The Department's report shall include any
38 observations or recommendations it deems appropriate with respect to correlations
39 between the vacancy rates and the condition or age of facilities.

40 (d) This section shall not apply to adult care home beds which are part of a
41 continuing care facility subject to the jurisdiction of or licensed by the Department of
42 Insurance pursuant to Article 64, Chapter 58 of the General Statutes.

43 (e) This section is effective when this act becomes law."

- 1 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2002.
2 The remainder of this act is effective when it becomes law.