

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1219

Short Title: Assisted Living Administrators.

(Public)

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Sponsors: Representative Clary.

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Referred to: Rules, Calendar and Operations of the House.

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May 5, 1997

A BILL TO BE ENTITLED

AN ACT TO LICENSE ASSISTED LIVING RESIDENCE ADMINISTRATORS.

The General Assembly of North Carolina enacts:

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

"RTICLE 20A.

"Assisted Living Residence Administrator Act.

**"§ 90-288.10. Title.**

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

**"§ 90-288.11. Purpose.**

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

**"§ 90-288.12. License required.**

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

**"§ 90-288.13. Definitions.**

The following definitions apply in this Article:

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

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

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

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three members. One member shall be an owner of an assisted living residence or actively engaged in the management of such a residence and shall serve for a term of five years. One member shall be an employee of the Department of Human Resources and shall serve for a term of four years. One member shall represent the public and shall serve for a term of three years.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three members. Two of the members shall be either an owner of an assisted living residence or actively engaged in the management of such a residence. One of these members shall serve for a term of five years, and one shall serve for a

1 term of four years. One member shall be employed as an educator and  
2 shall serve for a term of three years.

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

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

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

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

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

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

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

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

36 **"§ 90-288.15. Powers and duties of the Board.**

37 The Board shall have the power and duty to:

- 38 (1) Administer and enforce the provisions of this Article.  
39 (2) Adopt rules to administer and enforce the provisions of this Article.  
40 (3) Examine and determine the qualifications and fitness of applicants for  
41 licensure and renewal of licensure.  
42 (4) Issue, renew, deny, suspend, or revoke licenses and conduct disciplinary  
43 actions authorized by this Article.

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

28 **"§ 90-288.16. Assisted living residence administrator license.**

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

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



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

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

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

14 **"§ 90-288.22. Posting licenses.**

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

17 **"§ 90-288.23. Suspension, revocation, and refusal to renew a license.**

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

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

39 **"§ 90-288.24. Penalties.**

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

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

1 "§ 114-4.2G. Employment of attorney for the Board of Examiners for Assisted  
2 Living Residence Administrators.

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

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

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

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

14 (1a) ~~"Administrator" means a person approved by the Department of Human~~  
15 ~~Resources who has the responsibility for the total operation of a licensed~~  
16 ~~domiciliary home.~~ Administrator. – An individual licensed under Article  
17 20A of Chapter 90 of the General Statutes.

18 (1b) ~~"Adult care home" is an Adult care home.~~ – An assisted living residence in  
19 which the housing management provides 24-hour scheduled and  
20 unscheduled personal care services to two or more residents, either  
21 directly or, for scheduled needs, through formal written agreement with  
22 licensed home care or hospice agencies. Some licensed adult care homes  
23 provide supervision to persons with cognitive impairments whose  
24 decisions, if made independently, may jeopardize the safety or well-  
25 being of themselves or others and therefore require supervision.  
26 Medication in an adult care home may be administered by designated,  
27 trained staff. Adult care homes that provide care to two to six unrelated  
28 residents are commonly called family care homes. Adult care homes and  
29 family care homes are subject to licensure by the Division of Facility  
30 Services.

31 (1c) ~~"Amenities" means services.~~ Amenities. – Services such as meals,  
32 housekeeping, transportation, and grocery shopping that do not involve  
33 hands-on personal care.

34 (1d) ~~"Assisted living residence" means any Assisted living residence.~~ – Any  
35 group housing and services program for two or more unrelated adults,  
36 by whatever name it is called, that makes available, at a minimum, one  
37 meal a day and housekeeping services and provides personal care  
38 services directly or through a formal written agreement with one or  
39 more licensed home care or hospice agencies. The Department may  
40 allow nursing service exceptions on a case-by-case basis. Settings in  
41 which services are delivered may include self-contained apartment units  
42 or single or shared room units with private or area baths. Assisted living  
43 residences are to be distinguished from nursing homes subject to

1 provisions of G.S. 131E-102. Effective October 1, 1995, there are two  
2 types of assisted living residences: adult care homes and group homes  
3 for developmentally disabled adults. Effective July 1, 1996, there is a  
4 third type, multiunit assisted housing with services.

5 (1e) "~~Compensatory agent~~" means a Compensatory agent. – A spouse, relative,  
6 or other caretaker who lives with a resident and provides care to a  
7 resident.

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

12 a. Is attributed to a mental or physical impairment or combination  
13 of mental and physical ~~impairments;~~ impairments.

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

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

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

21 e. Reflects the person's need for a combination and sequence of  
22 special, interdisciplinary, or generic care, treatment, or other  
23 services which are of lifelong or extended duration and are  
24 individually planned and coordinated.

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

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

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

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

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

39 (7a) ~~Effective July 1, 1996, "multiunit assisted housing with services"~~ means an  
40 Multiunit assisted housing with services. – An assisted living residence  
41 in which hands-on personal care services and nursing services which are  
42 arranged by housing management are provided by a licensed home care  
43 or hospice agency, through an individualized written care plan. The



1 housing management has a financial interest or financial affiliation or  
2 formal written agreement which makes personal care services accessible  
3 and available through at least one licensed home care or hospice agency.  
4 The resident has a choice of any provider, and the housing management  
5 may not combine charges for housing and personal care services. All  
6 residents, or their compensatory agents, must be capable, through  
7 informed consent, of entering into a contract and must not be in need of  
8 24-hour supervision. Assistance with self-administration of medications  
9 may be provided by appropriately trained staff when delegated by a  
10 licensed nurse according to the home care agency's established plan of  
11 care. Multiunit assisted housing with services programs are required to  
12 register with the Division of Facility Services and to provide a  
13 disclosure statement. The disclosure statement is required to be a part of  
14 the annual rental contract that includes a description of the following  
15 requirements:

- 16 a. Emergency response ~~system;~~ system.
- 17 b. Charges for services ~~offered;~~ offered.
- 18 c. Limitations of ~~tenancy;~~ tenancy.
- 19 d. Limitations of ~~services;~~ services.
- 20 e. Resident ~~responsibilities;~~ responsibilities.
- 21 f. Financial/legal relationship between housing management and  
22 home care or hospice ~~agencies;~~ agencies.
- 23 g. A listing of all home care or hospice agencies and other  
24 community services in the ~~area;~~ area.
- 25 h. An appeals ~~process;~~ and process.
- 26 i. Procedures for required initial and annual resident screening and  
27 referrals for services.

28 Continuing care retirement communities, subject to regulation by the  
29 Department of Insurance under Chapter 58 of the General Statutes, are  
30 exempt from the regulatory requirements for multiunit assisted housing  
31 with services programs.

32 (7b) Multiunit registration. – The submission by a multiunit assisted housing  
33 with services provider of a disclosure statement containing all of the  
34 information as outlined in subdivision (7a) of this subsection.

35 (8) "Neglect" means the Neglect. – The failure to provide the services  
36 necessary to maintain a resident's physical or mental health.

37 (9) "Personal care services" means any Personal care services. – Any hands-on  
38 services allowed to be performed by In-Home Aides II or III as outlined  
39 in Department rules.

40 (10) "Registration" means the submission by a multiunit assisted housing  
41 with services provider of a disclosure statement containing all the  
42 information as outlined in subdivision (7a) of this subsection.

1           (11) ~~"Resident" means a~~ Resident. – A person living in an assisted living  
2           residence for the purpose of obtaining access to housing and services  
3           provided or made available by housing management."

4           Section 4. Notwithstanding the provisions of G.S. 90-288.16, as enacted in  
5 Section 1 of this act, the Board may grant a license to practice as an assisted living  
6 residence administrator to a person who is actively engaged as an assisted living  
7 residence administrator and is registered with the Division of Facilities Services on or  
8 before December 31, 1997. The person shall pay the license fee established pursuant to  
9 G.S. 90-288.19, as enacted in Section 1 of this act.

10           Section 5. There is appropriated from the General Fund to the North Carolina  
11 Board of Examiners for Assisted Living Residence Administrators the sum of two  
12 hundred fifty thousand dollars (\$250,000) for the 1997-98 fiscal year for operating  
13 expenses.

14           Section 6. Section 5 of this act becomes effective July 1, 1997. The remainder  
15 of this act is effective when it becomes law.