

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

1

HOUSE BILL 576

Short Title: Allow LMEs To Inspect MH/DD/SA Facilities. (Public)

Sponsors: Representatives Braxton, Brisson (Primary Sponsors); M. Alexander, Bryant, Dollar, Insko, Lucas, McLawhorn, Randleman, E. Warren, and R. Warren.

Referred to: Mental Health Reform, if favorable, Finance.

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO EMPOWER AUTHORIZED REPRESENTATIVES OF LOCAL MANAGEMENT ENTITIES TO INSPECT LICENSED FACILITIES THAT PROVIDE MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-22(b) reads as rewritten:

"(b) The Commission may adopt rules establishing a procedure whereby a licensable facility certified by a nationally recognized agency, such as the Joint Commission on Accreditation of Hospitals, may be deemed licensed under this Article by the Secretary. Any facility licensed under the provisions of this subsection shall continue to be subject to inspection by the Secretary and authorized representatives of local management entities. For the purposes of this Article, 'authorized representatives of local management entities' means individuals who are authorized by area directors, as defined in G.S. 122C-3, to represent local management entities for inspection purposes."

SECTION 2. G.S. 122C-24.1(e) reads as rewritten:

"(e) The Department shall impose a civil penalty on any facility which refuses to allow an authorized representative of the Department or an authorized representative of a local management entity within the same catchment area as the facility to inspect the premises and records of the facility."

SECTION 3. G.S. 122C-25 reads as rewritten:

"§ 122C-25. Inspections; confidentiality.

(a) The Secretary shall make or cause to be made inspections that the Secretary considers necessary. ~~Facilities~~ Each facility licensed under this Article shall be subject to inspection at all times by the Secretary and by an authorized representative of the local management entity within the same catchment area as the facility. All residential facilities as defined in G.S. 122C-3(14)e. shall be inspected on an annual basis.

(b) Notwithstanding G.S. 8-53, G.S. 8-53.3 or any other law relating to confidentiality of communications involving a patient or client, in the course of an inspection conducted under this section, representatives of the Secretary and authorized representatives of local management entities may review any writing or other record concerning the admission, discharge, medication, treatment, medical condition, or history of any individual who is or has been a patient, resident, or client of a licensable facility and the personnel records of those individuals employed by the licensable facility.



1 A licensable facility, its employees, and any other individual interviewed in the course of an
2 inspection are immune from liability for damages resulting from disclosure of any information
3 to the Secretary or an authorized representative of a local management entity.

4 Except as required by law, it is unlawful for the Secretary or an employee of the
5 Department or an authorized representative of a local management entity to disclose the
6 following information to someone not authorized to receive the information:

7 (1) Any confidential or privileged information obtained under this section unless
8 the client or ~~his~~ the client's legally responsible person authorizes disclosure
9 in writing; or

10 (2) The name of anyone who has furnished information concerning a licensable
11 facility without the individual's consent.

12 Violation of this subsection is a Class 3 misdemeanor punishable only by a fine, not to
13 exceed five hundred dollars (\$500.00).

14 All confidential or privileged information obtained under this section and the names of
15 persons providing this information are exempt from Chapter 132 of the General Statutes.

16 (c) The Secretary shall adopt rules regarding inspections by employees of the
17 Department or by authorized representatives of local management entities, that, at a minimum,
18 provide for:

19 (1) A general administrative schedule for inspections; and

20 (2) An unscheduled inspection without notice, if there is a complaint alleging
21 the violation of any licensing rule adopted under this Article.

22 (d) All residential facilities, as defined in G.S. 122C-3(14)e., shall ensure that the
23 Division of Health Service Regulation complaint hotline number is posted conspicuously in a
24 public place in the facility."

25 **SECTION 4.** This act is effective when it becomes law.