

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS65034-SH-10 (03/09)

Short Title: Adult Day Care/Overnight Respite Program.

(Public)

Sponsors: Senator Clary.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH ADULT DAY CARE/OVERNIGHT RESPITE PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-6 reads as rewritten:

"§ 131D-6. ~~Certification of adult~~ Adult day care and adult day care/overnight respite programs, programs; purpose; definition; penalty.

(a) Policy. – It is the policy of this State to enable people who would otherwise need full-time care away from their ~~own residences to remain in their residences~~ usual place of abode to remain in their communities with their friends and families as long as possible and to enjoy as much independence as possible. One of the programs ~~Adult day care and adult day care/overnight respite are two programs that permits~~ permit adults to remain in their residences and with their ~~families. families is adult day care.~~

(a1) Rules. – The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day care programs and adult day care/overnight respite programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities. The Social Services Commission shall also adopt rules concerning the imposition of civil penalties for a violation of this section or of rules adopted. The Department of Health and Human Services shall enforce the rules of the Social Services Commission.

(a2) Inspection and Certification. – The Department of Health and Human Services shall annually inspect and certify all adult day care programs and adult day care/overnight respite programs under rules adopted by the Social Services Commission.

(a3) Transportation. – Adult day care programs are not required to provide transportation to participants; however, those programs that choose to provide transportation shall comply with rules adopted by the Commission for the health and safety of participants during transport.

(b) Definitions. – The following definitions apply in this section:

(1) Adult day care program. – ~~As used in this section "adult day care program" means the provision of~~ A program that is inspected and certified by the Department as eligible to provide group care and supervision in a place other than their ~~the individual's~~ usual place of abode provided on a less than 24-hour basis to adults who may be physically or mentally disabled. ~~The Department of Health and Human Services shall annually inspect and certify all adult day care programs, under rules adopted by the Social Services Commission.~~ The Social Services Commission shall adopt rules to protect the



1 health, safety, and welfare of persons in adult day care programs.
2 These rules shall include minimum standards relating to management
3 of the program, staffing requirements, building requirements, fire
4 safety, sanitation, nutrition, and program activities. Adult day care
5 programs are not required to provide transportation to participants;
6 however, those programs that choose to provide transportation shall
7 comply with rules adopted by the Commission for the health and
8 safety of participants during transport.

9 (2) Adult day care/overnight respite program. – A program that is
10 inspected and certified by the Department as eligible to provide
11 24-hour group care and supervision to adults who may be physically
12 or mentally disabled. This 24-hour care must be provided by a
13 certified adult day care program and shall not exceed 10 consecutive
14 calendar days, or more than 60 total calendar days during a 365-day
15 period. The provision of this service does not obligate the State to
16 pay for any services not already authorized.

17 (3) Certified adult day care program. – An adult day care program that
18 has completed at least one annual inspection and certification cycle
19 and has not been found guilty of any violations in the last year.

20 (4) Special care services. – Programs, services, or activities designed
21 especially for participants with Alzheimer's disease or other
22 dementias, a mental health disability, or other special needs disease
23 or condition as determined by the Medical Care Commission.

24 ~~The Department of Health and Human Services shall enforce the rules of the Social~~
25 ~~Services Commission.~~

26 (b1) Adult Day Care Program Advertising Special Care Services. – An adult day care
27 program that provides or that advertises, markets, or otherwise promotes itself as providing
28 special care services for persons with Alzheimer's disease or other dementias, a mental health
29 disability, or other special needs disease or condition shall provide the following written
30 disclosures to the Department and to persons seeking adult day care program special care
31 services:

- 32 (1) A statement of the overall philosophy and mission of the adult day care
33 program and how it reflects the special needs of participants with dementia.
- 34 (2) The process and criteria for providing or discontinuing special care services.
- 35 (3) The process used for assessment and establishment of the plan of care and its
36 implementation, including how the plan of care is responsive to changes in
37 the participant's condition.
- 38 (4) Staffing ratios and how they meet the participant's need for increased special
39 care and supervision.
- 40 (5) Staff training that is dementia-specific.
- 41 (6) Physical environment and design features that specifically address the needs
42 of participants with Alzheimer's disease or other dementias.
- 43 (7) Frequency and type of participant activities provided.
- 44 (8) Involvement of families in special care and availability of family support
45 programs.
- 46 (9) Additional costs and fees to the participant for special care.

47 (b2) Written Disclosure Review. – As part of its certification renewal procedures and
48 inspections, the Department shall examine for accuracy the written disclosure of each adult day
49 care program subject to this section. Substantial changes to written disclosures shall be reported
50 to the Department at the time the change is made.

1 (b3) Adult Day Care Program Not Advertising Special Care Services. – Nothing in this
2 section shall be construed as prohibiting an adult day care program that does not advertise,
3 market, or otherwise promote itself as providing special care services for persons with
4 Alzheimer's disease or other dementias from providing adult day care services to persons with
5 Alzheimer's disease or other dementias, a mental health disability, or other special needs
6 disease or condition.

7 ~~(b4) As used in this section, the term "special care service" means a program, service, or~~
8 ~~activity designed especially for participants with Alzheimer's disease or other dementias, a~~
9 ~~mental health disability, or other special needs disease or condition as determined by the~~
10 ~~Medical Care Commission.~~

11 (c) Violations and Penalties. – The Secretary may impose a civil penalty not to exceed
12 one hundred dollars (\$100.00) for each violation on a person, firm, agency, or corporation who
13 willfully violates any provision of this section or any rule adopted by the Social Services
14 Commission pursuant to this section. Each day of a continuing violation constitutes a separate
15 violation.

16 In determining the amount of the civil penalty, the Secretary shall consider the degree and
17 extent of the harm or potential harm caused by the violation.

18 ~~The Social Services Commission shall adopt rules concerning the imposition of civil~~
19 ~~penalties under this subsection.~~

20 The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted
21 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

22 (c1) Offense. – Any person, firm, agency, or corporation that harms or willfully neglects
23 a person under its care is guilty of a Class 1 misdemeanor.

24 (d) Exemptions From This Section. – The following programs are exempted from the
25 provisions of this section:

- 26 (1) Those that care for three people or less;
- 27 (2) Those that care for two or more persons, all of whom are related by blood or
28 marriage to the operator of the facility;
- 29 (3) Those that are required by other statutes to be licensed by the Department of
30 Health and Human Services."

31 **SECTION 2.** The Social Services Commission shall adopt rules to establish adult
32 day care/overnight respite programs.

33 **SECTION 3.** Section 1 of this act becomes effective January 1, 2012; the
34 remainder of this act is effective when it becomes law.