

COUNTY ASSIGNMENTS BY REGIONS

With Office Phone Numbers

JANUARY 2009

RALEIGH OFFICE: 919-855-3765 Contact Information: Team Supervisors: Tony Coats Cassandra Gibson	<ol style="list-style-type: none">1. Alamance2. Bertie3. Camden4. Caswell5. Chatham6. Chowan7. Currituck8. Dare9. Durham10. Edgecombe11. Franklin	<ol style="list-style-type: none">12. Gates13. Granville14. Halifax15. Hertford16. Martin17. Nash18. Northampton19. Orange20. Pasquotank21. Perquimans	<ol style="list-style-type: none">22. Person23. Tyrrell24. Vance25. Wake26. Warren27. Washington28. Wilson
CLINTON OFFICE: 910-592-2932 Contact Information: Team Supervisors: Betty Merritt Tichina Raynor	<ol style="list-style-type: none">1. Beaufort2. Bladen`3. Brunswick4. Carteret5. Columbus6. Craven7. Cumberland8. Duplin9. Greene10. Harnett	<ol style="list-style-type: none">11. Hoke12. Hyde13. Johnston14. Jones15. Lee16. Lenoir17. Moore18. New Hanover19. Onslow20. Pamlico	<ol style="list-style-type: none">21. Pender22. Pitt23. Richmond24. Robeson25. Sampson26. Scotland27. Wayne
LEXINGTON OFFICE: 336-236-7420 Contact Information: Team Supervisors: Cathy deBernardo Harriett Hawkins	<ol style="list-style-type: none">1. Anson2. Cabarrus3. Davidson4. Davie5. Forsyth6. Guilford	<ol style="list-style-type: none">7. Mecklenburg8. Montgomery9. Randolph10. Rockingham11. Rowan12. Stanly	<ol style="list-style-type: none">13. Stokes14. Surry15. Union16. Yadkin
ASHEVILLE OFFICE 828-670-3391 Contact Information: Team Supervisors: Kayce Cowan Mynde Mull	<ol style="list-style-type: none">1. Alexander2. Alleghany3. Ashe4. Avery5. Buncombe6. Burke7. Caldwell8. Catawba9. Cherokee10. Clay	<ol style="list-style-type: none">11. Cleveland12. Gaston13. Graham14. Haywood15. Henderson16. Iredell17. Jackson18. Lincoln19. Macon	<ol style="list-style-type: none">20. Madison21. McDowell22. Mitchell23. Polk24. Rutherford25. Swain26. Transylvania27. Watauga28. Wilkes29. Yancey

FREQUENTLY USED PHONE NUMBERS

<u>Adult Care Raleigh Office</u>	<u>(919) 855-3765</u> <u>Fax: (919) 733-9379</u>
<u>Adult Care Asheville Office</u>	<u>(828) 670-3391</u> <u>Fax: (828) 670-5040</u>
<u>Adult Care Lexington Office</u>	<u>(336) 236-7420</u> <u>Fax: (336) 236-7426</u>
<u>Adult Care Clinton Office</u>	<u>(910) 592-2932</u> <u>Fax: (910) 590-2516</u>
<u>Construction Section – Raleigh</u>	<u>(919) 855-3893</u>
<u>Complaint Hot Line</u> <u>Complaint Intake Unit</u>	<u>1-800-624-3004</u> <u>(919) 855-4500</u>
<u>Certificate of Need</u>	<u>(919) 855-3873</u>
<u>Health Care Personnel Registry</u> Nurse Aide Registry Voice Response System	<u>(919) 855-3968</u> <u>(919) 855-3969</u> <u>(919) 715-0562</u>
<u>EDS (FL2s)</u>	<u>1-800-688-6696</u>
<u>DMA</u> Web Site: www.ncdhhs.gov/dma/	<u>(919) 855-4050</u>
<u>Medication Testing Questions – Susan Brantley</u> Voice Response	<u>(919) 855-3766</u> <u>(919) 733-7615</u>
<u>EMS (to order DNR forms)</u>	<u>(919) 855-3935</u>

Division of Health Service Regulation Web Site: www.ncdhhs.gov/dhsr

For Information on Resident Assessment/Food Service Manuals go to Adult Care Section and click on Links to Rules.

To request Monitoring Forms call your Regional Office and ask for the following person:

Raleigh:	Marcella Crocker
Clinton:	Tanya Alestock
Lexington:	Candy Pierce
Asheville:	Linda Shook

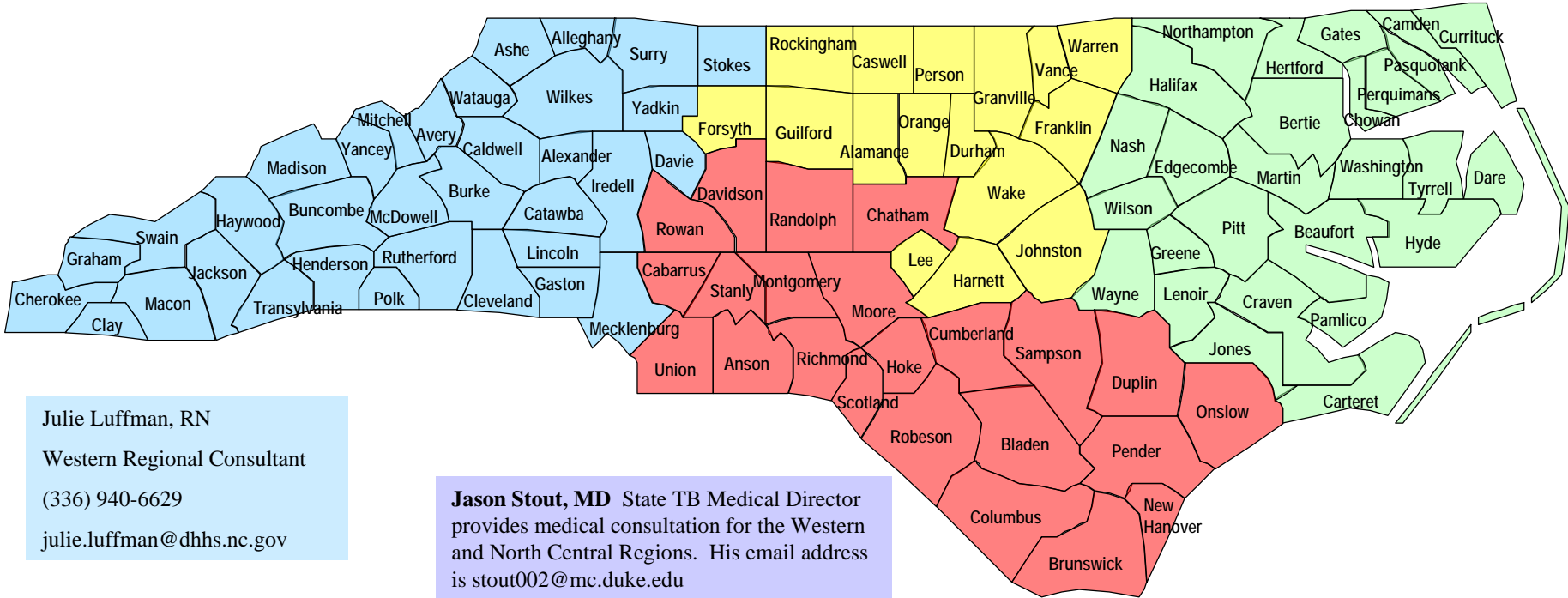
They will courier the monitoring forms to you.

Updated February 2009

North Carolina TB Nurse Consultant Regions

Ellen Fortenberry, RN
North Central Regional Consultant
(919) 733-7286 ext.105
ellen.fortenberry@dhhs.nc.gov

Myra Allen, RN
Eastern Regional Consultant
(252) 946-4170
myra.g.allen@dhhs.nc.gov



Julie Luffman, RN
Western Regional Consultant
(336) 940-6629
julie.luffman@dhhs.nc.gov

Jason Stout, MD State TB Medical Director provides medical consultation for the Western and North Central Regions. His email address is stout002@mc.duke.edu

David P. Holland, MD State TB Medical Consultant provides medical consultation for the South Central and Eastern Regions. His email address is david.p.holland@duke.edu

Both physicians may be reached by calling the Duke operator at **919-684-8111** and asking that she page the physician.

Elizabeth Zeringue, RN
South Central Regional Consultant
(919) 663-4600
elizabeth.zeringue@dhhs.nc.gov

<i>Industry Providers</i>	<i>Representative</i>	<i>Phone Number</i>
North Carolina Assisted Living Association 3392 Six Forks Road Raleigh, NC 27609	Peggy Smith, Exec. Director	(919) 467-2486 peggy@ncala.org
North Carolina Association of Long Term Care Facilities 4010 Barrett Drive Suite 102 Raleigh, NC 27609	Lou Wilson, Exec. Director	(919) 787-3560 lou@ncaltcf.com
NC Association of Non-Profit Homes for the Aging, Inc. 3700 National Drive Suite 208 Raleigh, NC 27612	Tom Akins Board Member	(919) 571-8333 takins@NCANPHA.org
North Carolina Health Care Facilities Association 5109 Bur Oak Circle Raleigh, NC 27612	Craig Souza, Exec. Director Contact: Sam Clark	(919) 782-3827 sam@NCHCFA.org
North Carolina Family Care Facilities Association PO Box 236 Aulander, NC 27805	Anthony Cherry, President	(252) 398-6711 AnthonyCherry@embarqmail.com
<i>Industry Advocates</i>	<i>Representative</i>	<i>Phone Number</i>
Friends of Residents in Long Term Care 883 Washington Street #C Raleigh, NC 27605	Bill Lamb, Board Member	(919) 782-1530 e-mail address friends@FORLTC.org
ARC PO Box 20545 Raleigh, NC 27619	Dave Richard, Director	(919) 782-4632
Adult Foster Care Association	Margaret Kirkman, President	(919)642-6975 (office) (919)548-5885 (work cell) margaret.kirkman@chathamnc.org
County DSS Directors	Susan McCracken	(704)732-0738 e-mail smccracken@lincolncountv.org
State Long Term Care Ombudsman NC Division of Aging 2101 Mail service Center Raleigh NC 27699-2101	Sharon Wilder	(919)733-3983 Sharon.wilder@dhhs.nc.gov

Division of Aging and Adult Services
North Carolina Long Term Care Ombudsman Program

Office Of The State Ombudsman

2101 Mail Service Center
Raleigh, North Carolina 27699-2101
(919) 733-8395
Fax (919) 715-0868

Website: <http://www.ncdhhs.gov/aging/>

Sharon Wilder sharon.wilder@dhhs.nc.gov , State Long Term Care Ombudsman
Kathryn Lanier kathryn.lanier@dhhs.nc.gov, LTC Ombudsman Program Specialist
Denise Rogers denise.rogers@dhhs.nc.gov, LTC Ombudsman/Elder Rights Specialist

Area Agency on Aging	Regional Ombudsmen	Counties Served
Southwestern Planning Commission 125 Bonnie Lane Sylva, N.C. 28779 Telephone (828) 586-1962 Ext 220 Fax:(828) 586-1968	Sara Jane Melton sarajane@regiona.org	<u>Region A</u> Cherokee Clay Graham Haywood Jackson Macon Swain
Land-of-Sky Regional Council 339 New Leicester Hwy., Suite 140 Asheville, N.C. 28806 Toll-Free: 1-800-727-0557 (828) 251-6622 Fax: (828) 251-6353	Barbara Hinshaw barbara@landofsky.org Terry Collins terry_c@landofsky.org Lee Ann Smith lasmith@landofsky.org	<u>Region B</u> Buncombe Henderson Madison Transylvania
Isothermal Commission P.O. Box 841 Rutherfordton, N.C. 28139 Toll Free: 1-800-331-9891 (828) 287-2281 Fax: (828) 287-2735	Mandy Johnson mjohnson@regionc.org ,	<u>Region C</u> Cleveland McDowell Polk Rutherford
High Country Council of Governments 468 New Market Boulevard Boone, NC 28607 Toll Free: 1-866-219-3643 (828) 265-5434 ext. 126 Fax: (828) 265-5439	Julie Wiggins jwiggins@regiond.org	<u>Region D</u> Alleghany Ashe Avery Mitchell Watauga Wilkes Yancey
Western Piedmont Council of Governments P O Box 9026 Hickory, N.C. 28603 (828) 485-4213 Fax: (828) 322-5991	Roxanne Powell roxanne.powell@wpcog.org	<u>Region E</u> Alexander Burke Caldwell Catawba

Area Agency on Aging	Regional Ombudsmen	Counties Served
<p>Centralina Council of Governments 525 North Tryon Street, 12th Floor Charlotte, N.C. 28202 Toll Free:1-800-508-5777 (704) 348-2714, 348-2715, 348-2724, 688-6503, 348-2739, 688-6504 Fax: (704) 347-4710</p>	<p>Debi Lee dlee@centralina.org Cindy Kincaid ckincaid@centralina.org Hillary Kaylor, hkaylor@centralina.org; Patricia Cowan pcowan@centralina.org Laurie Abounader labounader@centralina.org; Pam Irish pirish@centralina.org</p>	<p><u>Region F</u> Anson Cabarrus Gaston Iredell Lincoln, Mecklenburg Rowan Stanley Union</p>
<p>Piedmont Triad Regional Council (Greensboro office) 2216 W. Meadowview Road, Suite 201 Greensboro, N.C. 27407-3480 (336) 294-4950 Fax: (336) 632-0457</p>	<p>Don Heermans dheermans@ptrc.org Dorian Fredricksen dfredricksen@ptrc.org Kim Johnson kjohnson@ptrc.org Marquita Massenburg mmassenburg@ptrc.org</p>	<p><u>Region G</u> Alamance Caswell Davidson Guilford, Montgomery Randolph Rockingham</p>
<p>Piedmont Triad Regional Council (Winston-Salem office) 400 West 4th Street, Suite 400 Winston-Salem, N.C. 27101 (336) 761-2111 Fax: (336) 761-2112</p>	<p>Vickie Turner vturner@ptrc.org Grecia Gaura ggaura@ptrc.org Tenisha Moore tmoore@ptrc.org</p>	<p><u>Region G</u> Davie Forsyth Stokes Surry Yadkin</p>
<p>Triangle J Council of Governments P.O. Box 12276 Research Triangle Park, N.C. 27709 Toll Free: 1-800-310-9777 (919) 558-2719, (919) 558-2714, (919) 558-9404, (919) 558-2703, (919) 558-9401 Fax: (919) 998-8101</p>	<p>Nancy Murphy nmurphy@tjcog.org Aimee Kepler akepler@tjcog.org Carmelita Karhoff ckarhoff@tjcog.org; Jennifer Link jlink@tjcog.org Charlotte Terwilliger cterwilliger@tjcog.org</p>	<p><u>Region J</u> Chatham Durham Johnston Lee Moore Orange Wake</p>
<p>Kerr Tar Regional Council of Governments P.O. Box 709 Henderson, N.C. 27536 Toll Free: 1-866-506-6223 (252) 436-2050 Fax: (252) 436-2055</p>	<p>Kimberly Hawkins khawkins@kerrtarco.org</p>	<p><u>Region K</u> Franklin Granville Person Vance Warren</p>

Area Agency on Aging	Regional Ombudsmen	Counties Served
Upper Coastal Plains Council of Governments 121 West Nash Street P.O. Box 9 Wilson, N.C. 27893 (252) 234-5963 Fax: (252) 234-5971	Abigail Harper aharper@ucpcog.org	<u>Region L</u> Edgecombe Halifax Nash Northampton Wilson
Mid-Carolina Council of Governments P.O. Box 1510 Fayetteville, N.C. 28302 (910) 323-4191 ext. 25 and ext. 27 Fax: (910) 323-9330	Andrea W. Valdez andrea@mccog.org Tracy Davis tdavis@mccog.org	<u>Region M</u> Cumberland Harnett Sampson
Lumber River Council of Governments 30 CJ Walker Road Pembroke, N.C. 28358 Toll Free: 1-866-582-4251 (910) 272-5061 Fax: (910) 521-7556	Twilla C. Allen tca@lrcoq.org	<u>Region N</u> Bladen Hoke Robeson Scotland Richmond
Cape Fear Council of Governments 1480 Harbour Dr. Wilmington, N.C. 28401 Toll Free: 1-800-218-6575 (910) 395-4553 Fax: (910) 395-2684	Audrey Marshall amarshall@capefearcog.org Patricia Sacchetti psacchetti@capefearcog.org	<u>Region O</u> Brunswick Columbus New Hanover Pender
Eastern Carolina Council Area Agency on Aging P.O. Box 1717 New Bern, N.C. 28563 Toll Free: 1-800-824-4648 (252) 638-3185 ext. 3010 and ext. 3007 Fax: (252) 638-3187	Sheila Lewis slewis@eccog.org Angelia Pridgen apridgen@eccog.org	<u>Region P</u> Carteret Craven Duplin Greene Jones Lenoir Onslow Pamlico Wayne
Mid-East Commission 1385 John Small Avenue Washington, N.C. 27889 (252) 974-1838 Fax: (252) 551-7683	Annette Eubanks aebanks@mideastcom.org	<u>Region Q</u> Beaufort Bertie Hertford Martin Pitt
Albemarle Commission P.O. Box 646 Hertford, NC 27944 (252) 426-5753 Fax: (252) 426-8482	Debra Sheard dsheard@albemarlecommission.org	<u>Region R</u> Camden Chowan Currituck Dare Gates Hyde Pasquotank Perquimans Tyrrell Washington

August 16, 2011

G.S. 131D-2(b)(1) reads as written:

(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars (\$250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars (\$350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents (\$12.50). A license shall not be renewed nor a new license issued for a change of ownership of an adult care home if outstanding fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license.

- (1a) In addition to the licensing and inspection requirements mandated by subdivision (1) of this subsection:
- a. The Department shall ensure that adult care homes required to be licensed by this Article are monitored for licensure compliance on a regular basis. All facilities licensed under this Article and adult care units in nursing homes are subject to inspections at all times by the Secretary. The Division of Health Service Regulation shall inspect all adult care homes and adult care units in nursing homes on an annual basis, effective July 1, 2007, and thereafter. In addition, the Department shall ensure that adult care homes are inspected every two years to determine compliance with physical plant and life-safety requirements.
 - b. The Department shall work with county departments of social services to do the routine monitoring in adult care homes to ensure compliance with State and federal laws, rules, and regulations in accordance with policy and procedures established by the Division of Health Service Regulation and to have the Division of Health Service Regulation oversee this monitoring and perform any required follow-up inspection. The county departments of social services shall document in a written report all on-site visits, including monitoring visits, revisits, and complaint investigations. The county departments of social services shall submit to the Division of Health Service Regulation written reports of each facility visit within 20 working days of the visit.
 - c. The Division of Health Service Regulation shall conduct and document annual reviews of the county departments of social services' performance. When monitoring is not done timely or there is failure to identify or document noncompliance, the Department may intervene in the particular service in question. Department intervention shall include one or more of the following activities:

1. Sending staff of the Department to the county departments of social services to provide technical assistance and to monitor the services being provided by the facility.
2. Advising county personnel as to appropriate policies and procedures.
3. Establishing a plan of action to correct county performance.

The Secretary may determine that the Department shall assume the county's regulatory responsibility for the county's adult care homes.

d. The county departments of social services' adult home specialists and their supervisors shall complete:

1. Eight hours of prebasic training within 60 days of employment;
2. Thirty-two hours of basic training within six months of employment;
3. Twenty-four hours of postbasic training within six months of the basic training program;
4. A minimum of eight hours of complaint investigation training within six months of employment; and
5. A minimum of 16 hours of statewide training annually by the Division of Health Service Regulation.

e. The Department shall monitor regularly the enforcement of rules pertaining to air circulation, ventilation, and room temperature in resident living quarters. These rules shall include the requirement that air conditioning or at least one fan per resident bedroom and living and dining areas be provided when the temperature in the main center corridor exceeds 80 degrees Fahrenheit.

f. The Department shall keep an up-to-date directory of all persons who are administrators as defined in subdivision (1a) of subsection (a) of this section.

(1b) No new license shall be issued for any adult care home to an applicant for licensure who:

a. Was the owner, principal, or affiliate of a licensable facility under Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 that had its license revoked until one full year after the date of revocation;

b. Is the owner, principal, or affiliate of an adult care home that was assessed a penalty for a Type A or Type B violation until the earlier of one year from the date the penalty was assessed or until the home has substantially complied with the correction plan established pursuant to G.S. 131D-34 and substantial compliance has been certified by the Department; or

c. Is the owner, principal, or affiliate of an adult care home that had its license summarily suspended or downgraded to provisional status as a result of Type A or B violations until six months from the date of reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.

d. Is the owner, principal, or affiliate of a licensable facility that had its license summarily suspended or downgraded to provisional status as a result of violations under Chapter 122C, or Article 1 of Chapter 131D, or had its license summarily suspended or denied under Article 7 of Chapter 110 until six months from the date of the reinstatement of the license, restoration from provisional to full licensure, or termination of the provisional license, as applicable.

An applicant for new licensure may appeal a denial of certification of substantial compliance under subparagraph b. of this subdivision by filing with the Department a request for review by the Secretary within 10 days of the date of denial of the certification. Within 10 days of receipt of the request for review the Secretary shall issue to the applicant a written determination that either denies certification of substantial compliance or certifies substantial compliance. The decision of the Secretary is final.

(2) Any individual or corporation that establishes, conducts, manages, or operates a facility subject to licensure under this section without a license is guilty of a Class 3 misdemeanor, and upon conviction shall be punishable only by a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of a continuing violation after conviction shall be considered a separate offense.

(3) In addition, the Department may summarily suspend a license pursuant to G.S. 150B-3(c) whenever it finds substantial evidence of abuse, neglect, exploitation or any condition which presents an imminent danger to the health and safety of any resident of the home. Any facility wishing to contest summary suspension of a license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of summary suspension to the licensee.

(4) Notwithstanding G.S. 8-53 or any other law relating to confidentiality of communications between physician and patient, in the course of an inspection conducted under subsection (b):

a. Department representatives may review any writing or other record concerning the admission, discharge, medication, care, medical condition, or history of any person who is or has been a resident of the facility being inspected, and

b. Any person involved in giving care or treatment at or through the facility may disclose information to Department representatives;

unless the resident objects in writing to review of his records or disclosure of such information.

The facility, its employees and any other person interviewed in the course of an inspection shall be immune from liability for damages resulting from disclosure of any information to the Department.

The Department shall not disclose:

a. Any confidential or privileged information obtained under this subsection unless the resident or his legal representative authorizes disclosure in writing or unless a court of competent jurisdiction orders disclosure, or

b. The name of anyone who has furnished information concerning a facility without that person's consent.

The Department shall institute appropriate policies and procedures to ensure that unauthorized disclosure does not occur. All confidential or privileged information obtained under this section and the names of persons providing such information shall be exempt from Chapter 132 of the General Statutes.

(5) Notwithstanding any law to the contrary, Chapter 132 of the General Statutes, the Public Records Law, applies to all records of the State Division of Social Services of the Department of Health and Human Services and of any county department of social services regarding inspections of domiciliary care facilities except for information in the records that is confidential or privileged, including medical records, or that contains the names of residents or complainants.

(6) Prior to issuing a new license or renewing an existing license, the Department shall conduct a compliance history review of the facility and its principals and affiliates. The Department may refuse to license a facility when the compliance history review shows a pattern of noncompliance with State law by the facility or its principals or affiliates, or otherwise demonstrates disregard for the health, safety, and welfare of residents in current or past facilities. The Department shall require compliance history information and make its determination according to rules adopted by the Medical Care Commission.

(c) The following are excluded from the provisions of this section and are not required to be registered or obtain licensure under this section:

(1) Facilities licensed under Chapter 122C or Chapter 131E of the General Statutes;

(2) Persons subject to rules of the Division of Vocational Rehabilitation Services;

(3) Facilities that care for no more than four persons, all of whom are under the supervision of the United States Veterans Administration;

(4) Facilities that make no charges for housing, amenities, or personal care service, either directly or indirectly; and

(5) Institutions that are maintained or operated by a unit of government and that were established, maintained, or operated by a unit of government and exempt from licensure by the Department on September 30, 1995.

(c1) Although the contract obligation still remains to pay the housing management for any services covered by the contract between the resident and housing management, the resident of an assisted living facility has the right to obtain services not at the expense of the housing management, from providers other than the housing management.

(c2) The Medical Care Commission shall adopt rules necessary to carry out this section. The Commission has the authority, in adopting rules, to specify the limitation of nursing services provided by assisted living residences. In developing rules, the Commission shall consider the need to ensure comparable quality of services provided to residents, whether these services are provided directly by a licensed assisted living provider, licensed home care agency, or hospice. In adult care homes, living arrangements where residents require supervision due to cognitive impairments, rules shall be promulgated to ensure that supervision is appropriate and adequate to meet the special needs of these residents.

(c3) Nothing in this section shall be construed to supersede any federal or State antitrust, antikickback, or safe harbor laws or regulations.

(c4) Housing programs for two or more unrelated adults that target their services to elderly or disabled persons in which the only services provided by the housing management, either directly or through an agreement or other arrangements, are amenities that include, at a minimum, one meal a day and housekeeping services, are exempt from licensure, but are required to be listed with the Division of Aging, providing information on their location and number of units operated. This type of housing is not considered assisted living.

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

(e) The Department shall ensure that facilities conduct and complete an assessment of each resident within seventy-two hours of admitting the resident and annually thereafter. In conducting the assessment, the facility shall use an assessment instrument approved by the Secretary upon the advice of the Director of the Division of Aging. The Department shall provide ongoing training for facility personnel in the use of the approved assessment instrument.

The facility shall use the assessment to develop appropriate and comprehensive service plans and care plans and to determine the level and type of facility staff that is needed to meet the needs of residents. The assessment shall determine a resident's level of functioning and shall include, but not be limited to, cognitive status and physical functioning in activities of daily living. Activities of daily living are personal functions essential for the health and well-being of the resident. The assessment shall not serve as the basis for medical care. The assessment shall indicate if the resident requires referral to the resident's physician or other appropriate licensed health care professional or community resource.

The Department as part of its inspection and licensing of adult care homes shall review assessments and related service plans and care plans for a selected number of residents. In conducting this review, the Department shall determine:

(1) Whether the appropriate assessment instrument was administered and interpreted correctly;

(2) Whether the facility is capable of providing the necessary services;

(3) Whether the service plan or care plan conforms to the results of an appropriately administered and interpreted assessment; and

(4) Whether the service plans or care plans are being implemented fully and in accordance with an appropriately administered and interpreted assessment.

If the Department finds that the facility is not carrying out its assessment responsibilities in accordance with this section, the Department shall notify the facility and require the facility to implement a corrective action plan. The Department shall also notify the resident of the results of its review of the assessment, service plans, and care plans developed for the resident. In addition to administrative penalties, the Secretary may suspend the admission of any new residents to the facility. The suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(f) If any provisions of this section or the application of it to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(g) In order for an adult care home to maintain its license, it shall not hinder or interfere with the proper performance of duty of a lawfully appointed community advisory committee, as defined by G.S. 131D-31 and G.S. 131D-32.

(h) Suspension of admissions to adult care home:

(1) In addition to the administrative penalties described in subsection (b), the Secretary may suspend the admission of any new residents to an adult care home, where the conditions of the adult care home are detrimental to the health or safety of the residents. This suspension shall be for the period determined by the Secretary and shall remain in effect until the Secretary is satisfied that conditions or circumstances merit removing the suspension.

(2) In imposing a suspension under this subsection, the Secretary shall consider the following factors:

a. The degree of sanctions necessary to ensure compliance with this section and rules adopted hereunder; and

b. The character and degree of impact of the conditions at the home on the health or safety of its residents.

(3) The Secretary of Health and Human Services shall adopt rules to implement this subsection.

(4) Any facility wishing to contest a suspension of admissions shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 20 days after the Department mails a notice of suspension of admissions to the licensee.

(i) Notwithstanding the existence or pursuit of any other remedy, the Department of Health and Human Services may, in the manner provided by law, maintain an action in the name of the State for injunction or other process against any person to restrain or prevent the establishment, conduct, management or operation of an adult care home without a license. Such action shall be instituted in the superior court of the county in which any unlicensed activity has occurred or is occurring.

If any person shall hinder the proper performance of duty of the Secretary or his representative in carrying out this section, the Secretary may institute an action in the superior court of the county in which the hindrance has occurred for injunctive relief against the continued hindrance, irrespective of all other remedies at law.

Actions under this subsection shall be in accordance with Article 37 of Chapter 1 of the General Statutes and Rule 65 of the Rules of Civil Procedure.

(j) Adult care homes shall post the Division of Health Service Regulation's complaint hotline number conspicuously in a public place in the facility. (1868-9, c. 170, s. 3; Code, ss. 2332,

2333; Rev., ss. 3914, 3915; 1917, c. 170, s. 1; 1919, c. 46, ss. 1, 2; C.S., s. 5006; 1925, c. 90, ss. 1, 2; 1927, c. 65; 1931, c. 175; 1937, c. 319, s. 2; c. 436, ss. 3, 5; 1941, c. 270, s. 1; 1945, c. 185; 1951, c. 103; c. 1098, s. 2; 1953, c. 117; 1955, c. 269; 1957, c. 100, s. 1; c. 541, s. 7; 1959, c. 684; 1961, c. 51, s. 2; 1965, cc. 391, 1175; 1969, c. 546, s. 1; 1973, c. 476, ss. 128, 138; 1975, c. 729; 1981, c. 275, s. 2; c. 544, s. 1; 1983, c. 824, ss. 1-12; 1987, c. 827, ss. 1, 241; 1991, c. 572, ss. 1, 2; 1993, c. 321, s. 242; c. 530, s. 2; c. 539, s. 953; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 280, s. 1; c. 535, s. 8; 1997-443, s. 11A.118(a); 1997-456, s. 20; 1997-522, s. 1; 1999-113, ss. 1, 2; 1999-193, s. 1; 1999-334, ss. 1.2-1.5, 1.7, 1.14, 1.15, 3.3, 3.4; 1999-443, s. 2; 2000-140, s. 30; 2001-209, ss. 1(a), (b); 2001-487, s. 31; 2003-284, s. 34.1(a); 2003-294, s. 3; 2005-66, s. 1; 2005-276, ss. 10.40A(i), (j), (k), 41.2(a); 2007-182, s. 1; 2007-444, s. 5(a).)



**North Carolina Department of Health and Human Services
Division of Health Service Regulation**

2701 Mail Service Center ■ Raleigh, N. C. 27699-2701

Michael F. Easley, Governor
Carmen Hooker Odom, Secretary

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MEMORANDUM

December 1, 2007

To: Adult Care Homes
Home Care Agencies

From: Jeff Horton, Chief Operating Officer

Re: Provision of physical, occupational or speech therapy (PT/OT/ST) in adult care homes

It has come to our attention that PT/OT/ST services are being provided in adult care homes without meeting applicable licensing and/or Medicare certification requirements. According to the North Carolina General Statutes (NCGS) under § 131D-2(a)(1b), an adult care home is defined as:

“an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes.”

The issue at hand has to do with services such as PT/OT/ST and who is considered a qualified provider for these services. Since PT/OT/ST are not considered “*personal care services*”, they cannot be provided directly by the adult care home. Therefore, the question then becomes, who can provide these services? Typically, these services would be provided by a licensed home care agency. According to the Home Care Licensure Act of the NCGS under § 131E-136, home care agency and home care services are defined as:

- (2) *“Home care agency” means a private or public organization that provides home care services.*
- (3) *“Home care services” means any of the following services and directly related medical supplies and appliances, which are provided to an individual in a place of temporary or permanent residence used as an individual's home:*
 - a. *Nursing care provided by or under the supervision of a registered nurse;*
 - b. *Physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place of **temporary or permanent residence** used as the individual's home;*
 - c. *Medical social services;*
 - d. *In-home aide services that involve hands-on care to an individual;*
 - e. *Infusion nursing services; and*
 - f. *Assistance with pulmonary care, pulmonary rehabilitation or ventilation.*



It should be noted that an adult care home is considered an individual's home of "*temporary or permanent residence*". Therefore, in order for PT/OT/ST to be provided in an adult care home, one of the following condition(s) must be met:

- The services must be provided by a licensed home care agency if the resident is receiving nursing services in any capacity or when receiving more than one therapy service.
- If Medicaid reimbursed PT/OT/ST services are provided, they must be provided under Medicaid's Home Health Policy, which states that PT/OT/ST services can only be provided by licensed home care agencies that are enrolled with the Division of Medical Assistance as a Medicare certified home health agency.
- If Medicare reimbursed PT/OT/ST services are provided to an individual who does not require nursing services, the services can be provided by a home care agency but can also be provided by a physical, occupational or speech therapist working in independent practice or by a Medicare certified outpatient PT/OT/ST provider.

Additional considerations:

- It should be noted that Comprehensive Outpatient Rehabilitation Facilities (CORF) would be prohibited from providing PT/OT/ST in an adult care home since the provision of services can only be provided at the site of the CORF.
- In the case of a Medicare certified outpatient PT/OT/ST provider, services are typically provided at the facility's primary or extension sites. However, as noted above, services are allowed to be provided in the resident's home, which would include an adult care home. It should be noted that an adult care home is not an appropriate location for a primary or extension site unless the site has been reviewed by the Division of Health Service Regulation and meets criteria to assure the space, in which the service is provided, is adequately separate from the licensed adult care home. In addition, there must be sufficient space over and above space that is required by Adult Care Home Licensing Rules for specific dining, activity and recreation space. Therefore, each facility, after determining that programmatic aspects of PT/OT/ST services are acceptable in an ACH setting, must submit a full floor plan of the facility as it currently used to the Division's Construction Section showing compliance with licensing (space) requirements and also show the proposed PT/OT/ST area with mechanical, electrical, plumbing, and building details in order for the Section to evaluate the proposed impact on the facility with regards to licensing rules and possibly building codes. Collaboration also may be required with the local building inspector and fire official. Where building structural, or building system changes are proposed to accommodate the new service, licensed design professional architects and professional engineers (P.E.) must be retained to produce the drawings for institutional buildings. It is our opinion that this service could not be offered to clients other than the ACH residents without a building code review for mixed occupancy (adult care home + PT/OT/ST = 2 businesses).
- Under NCGS § 131D-21. Declaration of residents' rights. It states a resident has the right: "*(15) To have freedom to participate by choice in accessible community activities and in social, political, medical, and religious resources and to have freedom to refuse such participation.*" Although as noted on the first page of this memorandum [NCGS 131D-2(a)(1b)], an adult care home may have a written agreement with a home care or hospice agency to provide services, residents should, to the extent practicable, be allowed to choose which agency provides services to them.

We hope this memorandum provides sufficient clarification regarding the provision of PT/OT/ST services in adult care homes. If there are questions concerning this matter, please do not hesitate to contact this office.

MEMORANDUM

To: All Adult Care Home Providers

From: Barbara Ryan, Chief Adult Care Licensure Section

Date: September 21, 2007

Re: House Bill 1294 "An Act to Prohibit Smoking Inside Long-Term Care Facilities"

House Bill 1294, "An Act to Prohibit Smoking Inside Long-Term Care Facilities" was ratified on August 1, 2007. Section 1 of the bill applies to adult care homes licensed under General Statute (G.S.) 131D and requires facilities to:

- Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international 'No Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it;
- Direct any person who is smoking inside the facility to extinguish the lighted smoking product (Note: The bill defines 'inside' as "a fully enclosed area". Open and screened in porches would not be considered fully enclosed areas. A "fully enclosed area" would include an area containing a roof, walls and one or more doors. In addition, the term "facility" does not include the entire building but only the part of the building that is licensed under G.S. 131D. Non-licensed areas such as separate apartments, independent living, etc., would not be affected by this law); and
- Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

The Division of Health Service Regulation is charged with enforcing this bill effective October 1, 2007. The Division may impose a facility with an administrative penalty up to \$200.00 for each violation on any person who owns, manages, operates, or otherwise controls the licensed facility and fails to comply with the above requirements.

This bill can be accessed at:

<http://www.ncga.state.nc.us/sessions/2007/bills/house/html/h1294v6.html>

In addition, DHSR sent out a memorandum dated March 3, 2007 to all adult care homes concerning Resident Safety Regarding Smoking. The memorandum contains information relative the issue of smoking with adult care residents and can be accessed on the DHSR web site at:

<http://www.ncdhhs.gov/dhsr/news.html>

If there are further questions concerning this bill, please do not hesitate to contact the Adult Care Licensure Section at (919) 855-3765.

Cc: Rita C. Horton, DHSR Complaint Intake Unit
Bill Warren, Chief DHSR Construction Section
Sharon Wilder, Long Term Care Ombudsman, DAAS
NC Association of Long Term Care Facilities
NC Assisted Living Association

VOTING AND THE ABSENTEE BALLOT

We have been contacted by the State Board of Elections about their concern of voting and absentee ballot use in long term care facilities including Adult Care homes. Here is information regarding the General Statute and the use of absentee ballots. Please note the following General Statute regarding a Class I felony activity:

§ 163-226.3. Certain acts declared felonies.

- (a) Any person who shall, in connection with absentee voting in any election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:
 - (4) For any owner, manager, director, employee, or other person, other than the voter's near relative or verifiable legal guardian, to make a written request pursuant to G.S. 163-230.1 or an application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or verifiable legal guardian, to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;

Please note that this means that it is unlawful for an adult care home employee to request an absentee ballot on behalf of a registered voter who is a resident in an adult care home in this state or to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot.

If the resident or facility has questions about voting, please direct to them to their county Board of Elections for assistance.