

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1520\*

Short Title: Restraints in Facilities.

(Public)

Sponsors: Representatives Insko, Crawford, Goodwin (Primary Sponsors), Alexander, Cansler, Earle, Nye; and Luebke.

Referred to: Select Committee on Health Care Delivery.

May 15, 2000

A BILL TO BE ENTITLED

AN ACT TO REGULATE THE USE OF RESTRAINTS, SECLUSION, AND OTHER PROCEDURES IN CERTAIN FACILITIES, TO REQUIRE THE REPORTING OF DEATHS IN CERTAIN FACILITIES AND IMPOSING PENALTIES FOR FAILURE TO REPORT, AND TO AUTHORIZE THE GOVERNOR'S ADVOCACY COUNCIL FOR PERSONS WITH DISABILITIES TO HAVE ACCESS TO INFORMATION ABOUT THE DEATHS.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 122C-3 is amended by adding the following new definitions in the appropriate alphabetical order to read:

"§ 122C-3. Definitions.

...

(13) 'Drug used as a restraint' is a medication used to control behavior or to restrict the patient's freedom of movement and is not a standard treatment for the patient's medical or psychiatric condition.

...

(18a) 'Isolation time-out' means the removal of a client to a separate unlocked room or area from which the client is physically prevented from leaving.

...

1           (32a) 'Protective device' means intervention which provides support for or  
2           enhances the safety of a client. A 'protective behavioral device'  
3           enhances the safety of a self-injurious client. A 'protective medical  
4           device' provides support for a medically fragile client.

5           (32b) 'Restraint' means the limitation of an individual's freedom of movement.  
6           In accordance with G.S. 122C-60, 'restraint' includes mechanical  
7           restraint and physical restraint, as follows:

8           a.       'Mechanical restraint' is the restraining of a client with the intent  
9           of controlling the client's behavior with mechanical devices.  
10           Mechanical devices include cuffs, ankle straps, sheets, or  
11           restraining shirts, but not protective devices.

12           b.       'Physical restraint' means the use of physical holds to limit an  
13           individual's movements except those holds required for necessary  
14           medical procedures or gentle instructional or physical guiding.

15           c.       'Planned restrictive intervention' means the use of physical  
16           restraint, mechanical restraint, protective behavioral device,  
17           seclusion, or isolation time-out as part of a comprehensive  
18           treatment plan.

19           (32c) 'Seclusion' means the isolation of a client in a separate, locked room."

20           Section 1.(b) G.S. 122C-60 reads as rewritten:

21 **"§ 122C-60. Use of ~~physical restraints or seclusion.~~ restraints, seclusion, and other**  
22 **procedures.**

23           ~~(a) Physical restraint or seclusion of a client shall be employed only when there is~~  
24 ~~imminent danger of abuse or injury to himself or others, when substantial property~~  
25 ~~damage is occurring, or when the restraint or seclusion is necessary as a measure of~~  
26 ~~therapeutic treatment. All instances of restraint or seclusion and the detailed reasons for~~  
27 ~~such action shall be documented in the client's record. Each client who is restrained or~~  
28 ~~secluded shall be observed frequently, and a written notation of the observation shall be~~  
29 ~~made in the client's record.~~

30           ~~(b) The Commission may adopt rules to implement this section.~~

31           (a) Except as provided in subsection (b) of this section, a facility may use physical  
32 restraint, mechanical restraint, protective behavioral device, isolation time-out, or  
33 seclusion of a client only when there is imminent danger of harm to the client or others.

34           (b) A facility may use planned restrictive intervention when all of the following  
35 are true:

36           (1) There is current documented evidence based on the client's condition  
37 that includes medical and behavioral assessments, which clearly  
38 substantiates that serious physical harm to self or others would occur if  
39 the planned restrictive intervention were not employed.

40           (2) The planned restrictive intervention is used as a last resort when less  
41 restrictive alternatives have failed.

42           (3) The planned restrictive intervention has been reviewed, approved, and  
43 signed by the physician or licensed psychologist prior to

1 implementation by a treatment or planning team. The treatment or  
2 planning team shall include all of the following:

3 a. A physician.

4 b. A licensed psychologist or a licensed psychological associate.

5 c. The client or the client's legally responsible person.

6 d. A client advocate chosen by the client. If the client refuses to  
7 choose a client advocate, then the client advocate may be  
8 appointed by the facility.

9 (4) The client or the client's legally responsible person has consented to the  
10 plan in writing. If written consent of the legally responsible person  
11 cannot be obtained prior to implementation of the procedure, then  
12 witnessed verbal consent shall be valid until written consent is obtained  
13 but not longer than 30 days. If a client refuses to consent to the plan,  
14 then planned restrictive intervention may be used despite refusal by the  
15 client or the legally responsible person if the use is in accordance with  
16 G.S. 122C-57 and this section.

17 (5) The plan for use of planned restrictive intervention shall expire on the  
18 90th day after its initial adoption and every 90 days thereafter unless an  
19 external review of the planned restrictive intervention plan is conducted  
20 within the 90-day period and the review finds that continued use of the  
21 plan or alternative strategies is appropriate. As used in this subdivision,  
22 'external review' is a review conducted by one or more persons or  
23 entities knowledgeable of the client population and facility procedures  
24 and not employed by the facility.

25 Within 15 minutes of initiation, each use of planned restrictive intervention shall be  
26 approved by a professional qualified to assess the appropriateness of the planned  
27 restrictive intervention. The facility shall review regularly the use of planned restrictive  
28 intervention to assess its appropriateness and effectiveness.

29 (c) The facility shall employ the least restrictive method of restraint, isolation  
30 time-out, protective behavioral device, or seclusion applicable to the particular situation.  
31 The facility shall end the restraint, isolation time-out, protective behavioral device,  
32 seclusion, or planned restrictive intervention when the client is no longer a danger to self  
33 or others.

34 (d) A facility shall obtain the written order of a physician or licensed psychologist  
35 within one hour of initiating the use of physical restraint, mechanical restraint, protective  
36 behavioral device, seclusion, or isolation time-out. The order must specify duration and  
37 the circumstances under which the physical restraint, mechanical restraint, protective  
38 behavioral device, seclusion, or isolation time-out may be used. An order for the use of  
39 restraint, protective behavioral device, seclusion, or isolation time-out shall not be issued  
40 as a standing order or on an as needed basis. The use of planned restrictive intervention  
41 as authorized under subsection (b) of this section meets the written order requirements of  
42 this subsection.

1       (e) A facility shall ensure that each client in physical restraint, mechanical  
2 restraint, seclusion, or isolation time-out is observed continuously by facility staff. Staff  
3 assigned to conduct audio-video observation of a client shall not engage in any activity  
4 other than continuous observation of the client. A facility shall ensure that a physical  
5 assessment of each client in physical restraint, mechanical restraint, seclusion, or  
6 isolation time-out is conducted by a physician, registered nurse, physician assistant, or  
7 nurse practitioner within one hour of the initiation of the procedure.

8       (f) A facility shall not employ restraint and seclusion simultaneously.

9       (g) A drug used as a restraint:

10       (1) Shall not be employed for the purpose of discipline, punishment, staff  
11 convenience, or as a substitute for adequate staffing, and

12       (2) Shall not be employed unless required to treat a medical condition.

13       (h) A facility shall ensure that the following procedures are implemented during  
14 the use of restraint, protective behavioral device, seclusion, or isolation time-out:

15       (1) The client's vital indicators are monitored to assure that the client is  
16 conscious, breathing freely, free of physical pain or harm, verbally  
17 responsive, and motorically in control.

18       (2) If there is apparent loss or clouding of the client's consciousness or  
19 difficulty or interruption in the client's breathing, then the facility shall  
20 discontinue the restraints, protective behavioral device, isolation time-  
21 out or seclusion, and shall immediately seek medical services for the  
22 client.

23       (i) Facilities shall implement policies and practices that emphasize the use of  
24 alternatives to restraint, protective device, seclusion, and isolation time-out. Restraints,  
25 protective device, seclusion, and isolation time-out may be employed only by staff who  
26 have been trained and have demonstrated competence in the proper use of and  
27 alternatives to these procedures. Facilities shall ensure that staff authorized to employ  
28 and terminate restraint, protective device, seclusion, and isolation time-out are retrained  
29 and have demonstrated competence at least annually.

30       (j) Facilities shall document each instance of the use of restraint, protective  
31 behavioral device, seclusion, and isolation time-out in the client's record. Documentation  
32 shall include:

33       (1) The type of restraint, protective behavioral device, isolation time-out, or  
34 seclusion used.

35       (2) Reasons why the procedure was used, including a description of the  
36 event that prompted use.

37       (3) The time and duration of the procedure.

38       (4) Use of less restrictive alternatives.

39       (5) Planning, debriefing, and internal monitoring conducted to eliminate or  
40 reduce the probability of incidents that would require use of these  
41 procedures.

42       (6) All assessments, physical examinations, other safety checks, and  
43 continuous observations of the client employed during these procedures.

1           (7) Informed involvement of the client and the client's legally responsible  
2           person, if applicable, in planning, debriefing, and assessment  
3           concerning these procedures and their alternatives.

4           (k) Facilities shall collect and analyze data on the use of restraint, planned  
5 restrictive intervention, protective behavioral device, isolation time-out, and seclusion.  
6 The data shall reflect for each incidence, the type of procedure used, the length of time  
7 employed, alternatives considered or employed, and the effectiveness of each procedure  
8 or alternative employed. Facilities shall collect and analyze the data on a quarterly basis  
9 to monitor effectiveness, determine trends, and take corrective action where necessary.  
10 Facilities shall make the data available to the Secretary upon request.

11          (l) An individual or entity that (i) provides services to individuals who receive  
12 services from a facility, (ii) charges the facility or the individual a fee for the services  
13 provided, and (iii) is not licensed under Article 2 of this Chapter and not excluded from  
14 licensure under G.S. 122C-22, shall comply with the requirements of this section. An  
15 individual or entity required to comply with this section shall notify the facility  
16 immediately upon the death of an individual receiving services from the individual or  
17 entity. The notification shall include the circumstances of the death known to the  
18 individual or entity.

19          (m) The Commission shall adopt rules to implement this section. Rules adopted by  
20 the Commission shall address the following:

21           (1) Requirements for the external review of planned restrictive  
22 interventions on a regular basis to assess appropriateness and  
23 effectiveness.

24           (2) Qualifications necessary for professionals that assess the  
25 appropriateness of the planned restrictive intervention.

26           (3) Staff training and competence in:

27           a. The use of positive behavioral supports.

28           b. Communication strategies for defusing and de-escalating  
29 potentially dangerous behavior.

30           c. Monitoring vital indicators.

31           d. Administration of CPR.

32           e. Debriefing with client and staff.

33           f. Methods for determining staff competence, including  
34 qualifications of trainers and training curricula.

35           g. Other areas designed to ensure the safe and appropriate use of  
36 restraints, protective devices, isolation time-out, and seclusion.

37           (4) Time limits on and renewal of:

38           a. Written orders for the use of restraint, protective devices,  
39 isolation time-out, and seclusion, and

40           b. Reauthorization of planned restrictive intervention by a treatment  
41 or planning team.

42           (5) Time frames for physical assessment of a client who is in restraint,  
43 protective behavioral device, isolation time-out, or seclusion.

1           (6) Collection, analysis, and use of data by facilities pursuant to subsection  
2           (k) of this section.

3           (7) Any other matters relating to the use of restraints, protective devices,  
4           isolation time-out, and seclusion of clients.

5           (n) The Department may investigate complaints and inspect a facility at any time  
6 to ensure compliance with this section."

7           Section 2.(a) G.S. 131D-10.2 is amended by adding the following new  
8 definitions in the appropriate alphabetical order to read:

9 **"§ 131D-10.2. Definitions.**

10           ...  
11           (7a) 'Drug used as a restraint' is a medication used to control behavior or to  
12 restrict the child's freedom of movement and is not a standard treatment  
13 for the child's medical or psychiatric condition.

14           ...  
15           (10a) 'Physical restraint' means physically holding a child who is at imminent  
16 risk of harm to self or others until the child is calm.

17           ...  
18           (14) 'Time-out' means the removal of a child to a separate unlocked room or  
19 area from which a child is not physically prevented from leaving."

20           Section 2.(b) Article 1A of Chapter 131D of the General Statutes is amended by  
21 adding the following new section to read:

22 **"§ 131D-10.5A. Use of restraints and time-out in residential child-care facilities.**

23           (a) A residential child-care facility may employ physical restraint and time-out. A  
24 drug used as a restraint:

25           (1) Shall not be employed for the purpose of discipline, punishment, staff  
26 convenience, or as a substitute for adequate staffing, and

27           (2) Shall not be employed unless required to treat a medical condition.

28           (b) A residential child-care facility may employ physical restraint of a child only  
29 when there is imminent risk of harm to the child or others. In employing physical  
30 restraint the facility shall use the least restrictive method of physical restraint applicable  
31 to a particular situation and the facility shall end the physical restraint when there is no  
32 longer imminent risk of harm to the child or others. Before employing physical restraint  
33 the facility shall take into consideration the medical condition of the child and any  
34 medications the child may be taking.

35           (c) The residential child-care facility shall record in an incident log and shall  
36 document in the child's record all instances of physical restraint and the detailed reasons  
37 for the use of physical restraint by the facility. Documentation of instances of physical  
38 restraint shall include all of the following:

39           (1) The type of physical restraint used.

40           (2) The time and duration of the physical restraint.

41           (3) Less restrictive alternatives to the physical restraint that were  
42 considered.

1           (4) Evidence of planning and debriefing to reduce the probability of  
2           incidents that would require use of physical restraint.

3           (d) During the entire period of time that a child is under physical restraint in a  
4 residential child-care facility, the facility shall ensure that the child is observed  
5 continuously by facility staff. The facility shall include in the child's record a notation of  
6 the observation.

7           (e) Physical restraint of a child in a residential child-care facility may be employed  
8 only by staff who have been trained and have demonstrated competence in the safe and  
9 appropriate use of physical restraints, the alternatives, and techniques to identify and  
10 defuse potential emergency situations. Training shall also include monitoring of vital  
11 indicators, administration of CPR, and debriefing with staff and the child restrained. All  
12 staff employing restraint shall be trained and demonstrate competence annually.

13           (f) A residential child-care facility may use time-out only if the child in time-out  
14 is within hearing and visual distance of staff and the length of time-out is appropriate to  
15 the child's age and development.

16           (g) The Commission shall adopt rules on the use of physical restraint and time-out  
17 in residential child-care facilities and shall establish personnel requirements of staff  
18 employed in these facilities."

19           Section 3.(a) G.S. 131D-2 is amended by adding the following new  
20 subdivisions in the appropriate alphabetical order to read:

21 **"§ 131D-2. Licensing of adult care homes for the aged and disabled.**

22           (a) The following definitions will apply in the interpretation of this section:

23           ...

24           (1e) 'Chemical restraint' means a psychopharmacologic drug that is used for  
25 discipline or convenience and not required to treat medical symptoms.

26           ~~(1e) 'Compensatory agent' means a spouse, relative, or other caretaker who~~  
27 ~~lives with a resident and provides care to a resident.~~

28           ...

29           (11a) 'Restraint' means the restriction of an individual's freedom of  
30 movement. 'Restraint' includes physical holds and physical restraints,  
31 as follows:

32           a. 'Physical hold' means physically holding an individual to limit  
33 the individual's movements except when required for necessary  
34 medical procedures or gentle instructions or physical guiding.

35           b. 'Physical restraint' means the application of a physical or  
36 mechanical device attached to or adjacent to the resident's body  
37 that the resident cannot remove easily which restricts the  
38 resident's freedom of movement or normal access to the  
39 resident's body."

40           Section 3.(b) Article 1 of Chapter 131D of the General Statutes is amended by  
41 adding the following new section to read:

42 **"§ 131D-4.8. Use of restraint.**

1       (a) Adult care homes may use restraints only when the resident has medical  
2 symptoms that warrant the use of restraints, and when alternatives to restraints have  
3 failed. An adult care home shall not use restraints for the purpose of discipline or  
4 convenience. When using restraints, the facility shall use the least restrictive restraint  
5 that provides safety. Adult care homes shall develop and implement policies and  
6 procedures in the use of alternatives to restraints and in the care of residents who are  
7 restrained. The policies and procedures shall include:

8           (1) The implementation of a systemic and gradual process for reducing  
9 physical restraint time by the use of alternatives.

10          (2) Development of an assessment and care plan for each resident with  
11 medical symptoms that warrant the use of restraints. Except in  
12 emergency situations, a resident shall not be restrained until the  
13 assessment and care plan have been developed.

14          (3) A process for providing residents information that the resident's right to  
15 participate in the resident's care and treatment includes the right to  
16 accept or refuse physical restraint. Information shall enable the resident  
17 or the resident's representative to make an informed choice about the  
18 use of restraints, including negative outcomes, benefits, and alternatives  
19 to restraints. If the resident is incapable of making decisions, the  
20 information shall be provided to the resident's representative. A  
21 resident's representative shall not assent to the use of restraints for  
22 discipline or staff convenience or when the restraint is not necessary to  
23 treat the resident's medical symptoms.

24          (4) Other policies and procedures pertaining to the use of restraints and  
25 alternatives to restraints necessary to comply with rules adopted by the  
26 Medical Care Commission.

27       (b) Except in emergency situations where there is risk of harm to the resident or  
28 others, adult care homes shall not use physical restraints without a written order from a  
29 physician. The order shall specify the medical need for the restraint, the type of physical  
30 restraint to be used, the circumstances under which the restraint may be used, and the  
31 time intervals the restraint must be checked and removed. Adult care homes may employ  
32 physical holds of a resident only in an emergency where there is risk of harm to the  
33 resident or others. In emergency situations, adult care homes may use restraints for not  
34 longer than one hour until a physician is contacted or the resident is transferred to a  
35 medical facility.

36       (c) Adult care homes shall record in an incident log and shall document in the  
37 resident's record all instances of restraints employed and the detailed reasons for the use  
38 of restraints. Documentation of instances of restraints shall include all of the following:

39           (1) Medical symptoms warranting the use of restraint.

40           (2) The type of restraint used.

41           (3) The time and duration of the restraint.

42           (4) Alternatives to restraint that were provided and the resident's response.

43           (5) The resident's behaviors and care provided during the use of restraints.



1           (6) Evidence of planning by the adult care home to reduce the probability of  
2           incidents that would require the use of restraint.

3           (d) Restraints may be employed only by staff who have been trained and validated  
4 for competence by a registered nurse in the proper use of restraints, alternatives to  
5 restraints, and techniques to identify and defuse potential emergency situations. Adult  
6 care homes shall ensure that staff authorized to employ restraints are validated annually  
7 by a registered nurse as competent in the use of restraints and are required to complete  
8 annually a refresher course in the use of restraints and alternatives to restraints. The  
9 Commission shall adopt rules establishing minimum training and curriculum  
10 requirements for the use of restraints and alternatives to restraints.

11           (e) Adult care homes shall not use chemical restraint.

12           (f) As used in this section, a resident's representative is a person designated under  
13 G.S. 131D-22.

14           (g) The Medical Care Commission shall adopt rules to implement this section. The  
15 rules shall be at least as protective of residents of adult care homes as State and federal  
16 laws, rules, and regulations governing the use of physical restraints in nursing homes."

17           Section 4. Article 2 of Chapter 122C of the General Statutes is amended by  
18 adding the following new section to read:

19 **"§ 122C-31. Report required upon death of client.**

20           (a) A facility shall notify the Secretary immediately upon the death of any client of  
21 the facility. The Secretary may assess a civil penalty of not less than five hundred dollars  
22 (\$500.00) and not more than one thousand dollars (\$1,000) against a facility that fails to  
23 notify the Secretary of a death and the circumstances surrounding the death known to the  
24 facility. Each day of a continuing violation of this subsection is a separate violation.  
25 Chapter 150B of the General Statutes governs the assessment of a penalty under this  
26 section. A civil penalty owed under this section may be recovered in a civil action  
27 brought by the Secretary or the Attorney General. The clear proceeds of the penalty shall  
28 be remitted to the State Treasurer for deposit in accordance with State law.

29           (b) Upon receipt of notification from a facility in accordance with subsection (a) of  
30 this section, the Secretary shall notify the Governor's Advocacy Council for Persons With  
31 Disabilities that a person with a disability has died. The Secretary shall provide the  
32 Council access to the information about each death reported, including information  
33 resulting from any investigation of the death by the Department and from reports  
34 received from the Chief Medical Examiner pursuant to G.S. 130A-385. The Council shall  
35 use the information in accordance with its powers and duties under G.S. 143B-403.1 and  
36 applicable federal law and regulations.

37           (c) If the death of a client of a facility occurs within seven days of the use of  
38 restraint, protective behavioral device, seclusion, or isolation time-out, the Secretary shall  
39 initiate immediately an investigation of the death.

40           (d) An inpatient psychiatric unit of a hospital licensed under Chapter 131E of the  
41 General Statutes shall comply with this section.

42           (e) Nothing in this section abrogates State law pertaining to the confidentiality of  
43 information provided to the Secretary or the Council under this section. In carrying out

1 the requirements of this section, the Secretary and the Council shall adhere to State and  
2 federal requirements of confidentiality applicable to the information received under this  
3 section. A facility or provider that makes available confidential information in  
4 accordance with this section and with State and federal law is not liable for the release of  
5 the information."

6 Section 5. G.S. 130A-385 is amended by adding the following new subsection  
7 to read:

8 "(f) If a death occurred in a facility licensed subject to Article 2 or Article 3 of  
9 Chapter 122C of the General Statutes, or Articles 1 or 1A of Chapter 131D of the General  
10 Statutes, and the deceased was a client or resident of the facility or a recipient of facility  
11 services at the time of death, then the Chief Medical Examiner shall forward a copy of  
12 the medical examiner's report to the Secretary of Health and Human Services within 30  
13 days of receipt of the report from the medical examiner."

14 Section 6. Article 1A of Chapter 131D of the General Statutes is amended by  
15 adding the following new section to read:

16 **"§ 131D-10.6B. Report of death.**

17 (a) A facility licensed under this Article shall notify the Department immediately  
18 upon the death of any resident of the facility. The Department may assess a civil penalty  
19 of not less than five hundred dollars (\$500.00) and not more than one thousand dollars  
20 (\$1,000) against a facility that fails to notify the Department of a death and the  
21 circumstances surrounding the death known to the facility. Each day of a continuing  
22 violation of this subsection is a separate violation. Chapter 150B of the General Statutes  
23 governs the assessment of a penalty under this section. A civil penalty owed under this  
24 section may be recovered in a civil action brought by the Department or the Attorney  
25 General. The clear proceeds of the penalty shall be remitted to the State Treasurer for  
26 deposit in accordance with State law.

27 (b) Upon receipt of notification from a facility in accordance with subsection (a) of  
28 this section, the Department shall notify the Governor's Advocacy Council for Persons  
29 With Disabilities that a person with a disability has died. The Department shall provide  
30 the Council access to the information about each death reported to the Council, including  
31 information resulting from any investigation of the death by the Department, and from  
32 reports received from the Chief Medical Examiner pursuant to G.S. 130A-385. The  
33 Council shall use the information in accordance with its powers and duties under G.S.  
34 143B-403.1 and applicable federal law and regulations.

35 (c) If the death of a resident of the facility occurs within seven days of the use of  
36 physical restraint, the Department shall initiate immediately an investigation of the death.

37 (d) Nothing in this section abrogates State law pertaining to the confidentiality of  
38 information provided to the Department or the Council under this section. In carrying out  
39 the requirements of this section, the Department and the Council shall adhere to State and  
40 federal requirements of confidentiality applicable to the information received under this  
41 section. A facility or provider that makes available confidential information in  
42 accordance with this section and with State and federal law is not liable for the release of  
43 the information."

1 Section 7. Article 3 of Chapter 131D of the General Statutes is amended by  
2 adding the following new section to read:

3 **"§ 131D-34.1. Report of death of resident.**

4 (a) An adult care home shall notify the Department of Health and Human Services  
5 immediately upon the death of any resident that occurs in the adult care home or that  
6 occurs within 24 hours of the resident's transfer to a hospital. The Department may  
7 assess a civil penalty of not less than five hundred dollars (\$500.00) and not more than  
8 one thousand dollars (\$1,000) against a facility that fails to notify the Department of a  
9 death and the circumstances surrounding the death known to the facility. Each day of a  
10 continuing violation of this subsection is a separate violation. Chapter 150B of the  
11 General Statutes governs the assessment of a penalty under this section. A civil penalty  
12 owed under this section may be recovered in a civil action brought by the Department or  
13 the Attorney General. The clear proceeds of the penalty shall be remitted to the State  
14 Treasurer for deposit in accordance with State law.

15 (b) Upon receipt of notification from an adult care home in accordance with  
16 subsection (a) of this section, the Department of Health and Human Services shall notify  
17 the Governor's Advocacy Council for Persons With Disabilities that a person with a  
18 disability has died. The Department shall provide the Council access to the information  
19 about each death reported, including information resulting from any investigation of the  
20 death by the Department and from reports received from the Chief Medical Examiner  
21 pursuant to G.S. 130A-385. The Council shall use the information in accordance with its  
22 powers and duties under G.S. 143B-403.1 and applicable federal law and regulations.

23 (c) If the death of a resident of the adult care home occurs within seven days of the  
24 use of physical restraint or physical hold, the Department shall initiate immediately an  
25 investigation of the death.

26 (d) Nothing in this section abrogates State law pertaining to the confidentiality of  
27 information provided to the Department or the Council under this section. In carrying out  
28 the requirements of this section, the Department and the Council shall adhere to State and  
29 federal requirements of confidentiality applicable to the information received under this  
30 section. A facility or provider that makes available confidential information in  
31 accordance with this section and with State and federal law is not liable for the release of  
32 the information."

33 Section 8. This act becomes effective January 1, 2001.