

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 910

Short Title: Allow Overnight Respite/Adult Day Facilities. (Public)

Sponsors: Representatives Avila, Dollar, and Lambeth (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Finance, if favorable, Appropriations.

April 20, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT ESTABLISHING A CERTIFICATION PROCESS FOR ADULT DAY CARE AND  
3 ADULT DAY HEALTH OVERNIGHT RESPITE PROGRAMS; ESTABLISHING  
4 CERTIFICATION AND CONSTRUCTION PROJECT FEES FOR THESE OVERNIGHT  
5 RESPITE PROGRAMS; APPROPRIATING FUNDS TO THE DEPARTMENT OF  
6 HEALTH AND HUMAN SERVICES, DIVISION OF HEALTH SERVICE  
7 REGULATION, FOR ADDITIONAL STAFF TO SUPPORT THIS CERTIFICATION  
8 PROCESS; ADDING OVERNIGHT RESPITE AS AN APPROVED SERVICE UNDER  
9 THE HOME AND COMMUNITY CARE BLOCK GRANT; AND ALLOWING  
10 CERTIFIED ADULT DAY CARE AND ADULT DAY HEALTH OVERNIGHT  
11 RESPITE PROGRAMS TO BECOME ALLOWABLE PROVIDERS OF RESPITE  
12 SERVICES UNDER THE STATE'S INNOVATIONS WAIVER AND COMMUNITY  
13 ALTERNATIVES PROGRAM FOR DISABLED ADULTS WAIVER.

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** Article 1 of Chapter 131D of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 131D-6A. Certification to offer overnight respite in adult day care and adult day**  
18 **health facilities; rules; enforcement.**

19 (a) As used in this section, "overnight respite services" means the provision of group  
20 care and supervision in a place other than their usual place of abode on a 24-hour basis to adults  
21 who may be physically or mentally disabled.

22 (b) Any facility certified to provide adult day care services pursuant to G.S. 131D-6,  
23 adult day health services pursuant to 10A NCAC 06S, or both, may apply to the Department for  
24 certification to offer a program of overnight respite services. The Department shall annually  
25 certify all overnight respite programs in facilities certified to provide adult day care services,  
26 adult day health services, or both, under rules adopted by the Department pursuant to  
27 subsection (c) of this section. As part of the certification process, the Division of Health  
28 Service Regulation shall inspect each overnight respite program for compliance with the rules  
29 adopted by the Department pursuant to subsection (c) of this section.

30 (c) The Department shall establish rules governing the certification of overnight respite  
31 programs in facilities certified to provide adult day care services, adult day health services, or  
32 both. The rules shall limit the provision of 24-hour care for each adult to (i) not more than 14  
33 consecutive calendar days, or not more than 60 total calendar days, during a 365-day period or  
34 (ii) the amount of respite allowed under the State's Innovations waiver or Community  
35 Alternatives Program for Disabled Adults (CAP/DA) waiver, as applicable. The rules shall



1 include minimum requirements to ensure the health and safety of adult day care overnight  
 2 respite participants. These requirements shall address all of the following:

- 3 (1) Program management.
- 4 (2) Staffing.
- 5 (3) Building specifications.
- 6 (4) Fire safety.
- 7 (5) Sanitation.
- 8 (6) Nutrition.
- 9 (7) Enrollment.
- 10 (8) Bed capacity limitations, which shall not exceed six beds in each adult day  
 11 care program.
- 12 (9) Medication Management.
- 13 (10) Program activities.

14 (d) The Division of Health Service Regulation shall have the authority to enforce the  
 15 rules adopted by the Department under subsection (c) of this section and shall be responsible  
 16 for the investigation of complaints pertaining to overnight respite programs in facilities  
 17 certified to provide adult day care services, adult day health services, or both.

18 (e) Each facility that is certified to provide a program of overnight respite services  
 19 under this section shall periodically report the number of individuals served and the average  
 20 daily census to the Division of Health Service Regulation on a schedule determined by the  
 21 Division.

22 (f) The Division of Health Service Regulation shall have the authority to suspend or  
 23 revoke a facility's certification to provide a program of overnight respite services at any time  
 24 due to noncompliance with regulatory requirements which has resulted in death or serious  
 25 physical harm, or when there is a substantial risk that death or serious physical harm will occur.

26 (g) Nothing in this section shall be construed to prevent a certified adult day care  
 27 overnight respite program or a certified adult day health overnight respite program from  
 28 receiving State funds or participating in any government insurance plan, including the  
 29 Medicaid program, to the extent authorized or permitted under applicable State or federal law.

30 (h) The Department shall charge each adult day care overnight respite program and  
 31 each adult day health overnight respite program a nonrefundable initial certification fee of three  
 32 hundred fifty dollars (\$350.00) and a nonrefundable renewal certification fee in the amount of  
 33 three hundred fifteen dollars (\$315.00)."

34 **SECTION 2.** G.S. 131E-267(g) reads as rewritten:

35 "(g) The fee imposed for the review of the following residential construction projects is:

<b>Residential Project</b>	<b>Project Fee</b>
36 Family Care Homes	\$225.00 flat fee
37 ICF/MR Group Homes	\$350.00 flat fee
38 Group Homes: 1-3 beds	\$125.00 flat fee
39 Group Homes: 4-6 beds	\$225.00 flat fee
40 Group Homes: 7-9 beds	\$275.00 flat fee
41 <u>Adult Day Care Overnight Respite Facility</u>	<u>\$225.00 flat fee</u>
42 <u>Adult Day Health Overnight Respite Facility</u>	<u>\$225.00 flat fee</u>
43 Other residential:	
44 More than 9 beds	\$275.00 plus \$0.15 per square foot of
45	project space."

46  
 47 **SECTION 3.** There is appropriated from the General Fund to the Department of  
 48 Health and Human Services, Division of Health Service Regulation, the sum of eighty-eight  
 49 thousand dollars (\$88,000) for the 2015-2016 fiscal year and the sum of eighty-eight thousand  
 50 dollars (\$88,000) for the 2016-2017 fiscal year. These funds shall be used to create one  
 51 full-time equivalent Nursing Consultant position and one full-time equivalent

1 Engineer/Architect position within the Division dedicated to inspecting adult day care and adult  
2 day health facilities seeking certification to provide overnight respite in accordance with  
3 G.S. 131D-6A, as enacted by Section 1 of this act.

4 **SECTION 4.** The Department of Health and Human Services, Division of Aging  
5 and Adult Services, shall add adult day care overnight respite programs as a service category  
6 under the Home and Community Care Block Grant. Counties may elect to use adult day care  
7 overnight respite programs or adult day health overnight respite programs certified under  
8 G.S. 131D-6A, as enacted by Section 1 of this act, to provide overnight respite services to  
9 caregivers of older adults from funds received under the Home and Community Care Block  
10 Grant.

11 **SECTION 5.** The Department of Health and Human Services, Division of Medical  
12 Assistance, shall take any and all action necessary to amend the North Carolina Innovations  
13 waiver and the North Carolina Community Alternatives Program for Disabled Adults  
14 (CAP/DA) waiver for the purpose of allowing facilities certified to provide adult day care  
15 overnight respite programs and adult day health overnight respite programs under  
16 G.S. 131D-6A, as enacted by Section 1 of this act, to become allowable providers of overnight  
17 respite under each waiver.

18 **SECTION 6.** This act becomes effective July 1, 2015.