

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 109*

Short Title: Health Care Personnel Registry/Funds. (Public)

Sponsors: Senators Malone, Dannelly, Dorsett, Allran, and Bingham.

Referred to: Appropriations/Base Budget.

February 12, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE HEALTH CARE PERSONNEL REGISTRY BY
3 AMENDING THE DEFINITIONS OF HEALTH CARE FACILITIES AND
4 HEALTH CARE PERSONNEL, AND TO APPROPRIATE FUNDS TO THE
5 DIVISION OF FACILITY SERVICES FOR ADDITIONAL STAFFING, AS
6 RECOMMENDED BY THE NORTH CAROLINA STUDY COMMISSION ON
7 AGING.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 131E-256 reads as rewritten:

10 **"§ 131E-256. Health Care Personnel Registry.**

11 (a) The Department shall establish and maintain a health care personnel registry
12 containing the names of all health care personnel working in health care facilities in
13 North Carolina who have:

14 (1) Been subject to findings by the Department of:

- 15 a. Neglect or abuse of a resident in a health care facility or a
16 person to whom home care services as defined by
17 G.S. 131E-136 or hospice services as defined by G.S. 131E-201
18 are being provided.
19 b. Misappropriation of the property of a resident in a health care
20 facility, as defined in subsection (b) of this section including
21 places where home care services as defined by G.S. 131E-136
22 or hospice services as defined by G.S. 131E-201 are being
23 provided.
24 c. Misappropriation of the property of a health care facility.
25 d. Diversion of drugs belonging to a health care facility or to a
26 patient or client.
27 e. Fraud against a health care facility or against a patient or client
28 for whom the employee is providing services.

- 1 (2) Been accused of any of the acts listed in subdivision (1) of this
2 subsection, but only after the Department has screened the allegation
3 and determined that an investigation is required.

4 The Health Care Personnel Registry shall also contain all findings by the
5 Department of neglect of a resident in a nursing facility or abuse of a resident in a
6 nursing facility or misappropriation of the property of a resident in a nursing facility by
7 a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

8 (a1) The Department shall include in the registry a brief statement of any
9 individual disputing the finding entered against the individual in the health care
10 personnel registry pursuant to subdivision (1) of subsection (a) of this section.

11 (b) For the purpose of this section, the following are considered to be "health care
12 facilities":

- 13 (1) Adult Care Homes as defined in G.S. 131D-2.
14 (2) Hospitals as defined in G.S. 131E-76.
15 (3) Home Care Agencies as defined in G.S. 131E-136.
16 (4) Nursing Pools as defined by G.S. 131E-154.2.
17 (5) Hospices as defined by G.S. 131E-201.
18 (6) Nursing Facilities as defined by G.S. 131E-255.
19 (7) State-Operated Facilities as defined in G.S. 122C-3(14)f.
20 (8) Residential Facilities as defined in G.S. 122C-3(14)e.
21 (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.
22 (10) Licensable Facilities as defined in G.S. 122C-3(14)b.
23 (11) Multiunit Assisted Housing with Services as defined in G.S. 131D-2.
24 (12) Community-Based Providers of Services for the Mentally Ill, the
25 Developmentally Disabled, and Substance Abusers that are not
26 required to be licensed under Article 2 of Chapter 122C of the General
27 Statutes.
28 (13) Agencies providing in-home aide services funded through the Home
29 and Community Care Block Grant Program in accordance with
30 G.S. 143B-181.1(a)11.

31 (c) For the purpose of this section, the term "health care personnel" means any
32 unlicensed staff of a health care facility that has direct access to residents, clients, or
33 their property. Direct access includes any health care facility unlicensed staff that during
34 the course of employment has the opportunity for direct contact with an individual or an
35 individual's property, when that individual is a resident or person to whom services are
36 provided. ~~the following are considered to be "health care personnel":~~

- 37 (1) ~~In an adult care home, an adult care personal aide who is any person~~
38 ~~who either performs or directly supervises others who perform task~~
39 ~~functions in activities of daily living which are personal functions~~
40 ~~essential for the health and well being of residents such as bathing,~~
41 ~~dressing, personal hygiene, ambulation or locomotion, transferring,~~
42 ~~toileting, and eating.~~

- 43 (2) ~~A nurse aide.~~

1 ~~(3) An in-home aide or an in-home personal care aide who provides~~
2 ~~hands-on paraprofessional services.~~

3 ~~(4) Unlicensed assistant personnel who provide hands-on care, including,~~
4 ~~but not limited to, habilitative aides and health care technicians.~~

5 (d) Health care personnel who wish to contest findings under subdivision (a)(1)
6 of this section are entitled to an administrative hearing as provided by the
7 Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a
8 contested case shall be filed within 30 days of the mailing of the written notice of the
9 Department's intent to place its findings about the person in the Health Care Personnel
10 Registry.

11 (d1) Health care personnel who wish to contest the placement of information
12 under subdivision (a)(2) of this section are entitled to an administrative hearing as
13 provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A
14 petition for a contested case hearing shall be filed within 30 days of the mailing of the
15 written notice of the Department's intent to place information about the person in the
16 Health Care Personnel Registry under subdivision (a)(2) of this section. Health care
17 personnel who have filed a petition contesting the placement of information in the
18 health care personnel registry under subdivision (a)(2) of this section are deemed to
19 have challenged any findings made by the Department at the conclusion of its
20 investigation.

21 (d2) Before hiring health care personnel into a health care facility or service, every
22 employer at a health care facility shall access the Health Care Personnel Registry and
23 shall note each incident of access in the appropriate business files.

24 (e) The Department shall provide an employer at a health care facility or
25 potential employer at a health care facility of any person listed on the Health Care
26 Personnel Registry information concerning the nature of the finding or allegation and
27 the status of the investigation.

28 (f) No person shall be liable for providing any information for the health care
29 personnel registry if the information is provided in good faith. Neither an employer,
30 potential employer, nor the Department shall be liable for using any information from
31 the health care personnel registry if the information is used in good faith for the purpose
32 of screening prospective applicants for employment or reviewing the employment status
33 of an employee.

34 (g) Health care facilities shall ensure that the Department is notified of all
35 allegations against health care personnel, including injuries of unknown source, which
36 appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must
37 have evidence that all alleged acts are investigated and must make every effort to
38 protect residents from harm while the investigation is in progress. The results of all
39 investigations must be reported to the Department within five working days of the initial
40 notification to the Department.

41 (h) The North Carolina Medical Care Commission shall adopt, amend, and repeal
42 all rules necessary for the implementation of this section.

43 (i) In the case of a finding of neglect under subdivision (1) of subsection (a) of
44 this section, the Department shall establish a procedure to permit health care personnel

1 to petition the Department to have his or her name removed from the registry upon a
2 determination that:

- 3 (1) The employment and personal history of the nurse aid does not reflect
4 a pattern of abusive behavior or neglect;
5 (2) The neglect involved in the original finding was a singular occurrence;
6 and
7 (3) The petition for removal is submitted after the expiration of the
8 one-year period which began on the date the petitioner's name was
9 added to the registry under subdivision (1) of subsection (a) of this
10 section."

11 **SECTION 2.** There is appropriated from the General Fund to the
12 Department of Health and Human Services, Division of Facility Services, the sum of
13 one million seven hundred thousand dollars (\$1,700,000) for the 2007-2008 fiscal year
14 and the sum of one million seven hundred thousand dollars (\$1,700,000) for the
15 2008-2009 fiscal year to establish positions to handle increases in allegations and
16 investigations resulting from this act and prior acts expanding the coverage of the
17 Health Care Personnel Registry.

18 **SECTION 3.** Section 1 of this act becomes effective January 1, 2008.
19 Section 2 of this act becomes effective July 1, 2007. The remainder of this act is
20 effective when it becomes law.