

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SENATE BILL 542
RATIFIED BILL

AN ACT TO REQUIRE LONG-TERM CARE FACILITIES TO REQUIRE APPLICANTS FOR EMPLOYMENT AND CERTAIN EMPLOYEES TO SUBMIT TO DRUG TESTING FOR CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 131D of the General Statutes is amended by adding a new section to read:

"§ 131D-45. Examination and screening for the presence of controlled substances required for applicants for employment in adult care homes.

(a) An offer of employment by an adult care home licensed under this Article to an applicant is conditioned on the applicant's consent to an examination and screening for controlled substances. The examination and screening shall be conducted in accordance with Article 20 of Chapter 95 of the General Statutes. A screening procedure that utilizes a single-use test device may be used for the examination and screening of applicants and may be administered on-site. If the results of the applicant's examination and screening indicate the presence of a controlled substance, the adult care home shall not employ the applicant unless the applicant first provides to the adult care home written verification from the applicant's prescribing physician that every controlled substance identified by the examination and screening is prescribed by that physician to treat the applicant's medical or psychological condition. The verification from the physician shall include the name of the controlled substance, the prescribed dosage and frequency, and the condition for which the substance is prescribed. If the result of an applicant's or employee's examination and screening indicates the presence of a controlled substance, the adult care home may require a second examination and screening to verify the results of the prior examination and screening.

(b) An adult care home may require random examination and screening for controlled substances as a condition of continued employment. If the adult care home has reasonable grounds to believe that an employee is an abuser of a controlled substance, the adult care home may require that employee to undergo examination and screening for controlled substances as a condition of continued employment.

(c) An adult care home and an officer or employee of an adult care home that, in good faith, complies with this section is not liable for the failure of the adult care home to employ or continue the employment of an individual on the basis of the results of an examination and screening of the applicant or employee for controlled substances.

(d) An entity and officers and employees of an entity that perform controlled substance examination and screening in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune from civil liability for conducting or failing to conduct the examination and screening if the examination and screening are requested and received in compliance with this section and with Article 20 of Chapter 95 of the General Statutes.

(e) The results of an examination and screening conducted at the request of an adult care home in accordance with this section are confidential and not a public record under Chapter 132 of the General Statutes. The adult care home shall maintain the confidentiality of all information related to the examination and screening of an applicant for employment or an individual currently employed by the adult care home.

(f) The adult care home shall pay expenses related to controlled substance examination and screening pursuant to this section, except examinee-requested retests. The examinee shall pay all reasonable expenses for retests of confirmed positive results."



SECTION 2. Part 1 of Article 6 of Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-114.4. Examination and screening for the presence of controlled substances required for applicants for employment in nursing homes.

(a) An offer of employment by a nursing home licensed under this Part to an applicant is conditioned on the applicant's consent to an examination and screening for controlled substances. The examination and screening shall be conducted in accordance with Article 20 of Chapter 95 of the General Statutes. A screening procedure that utilizes a single-use test device may be used for the examination and screening of applicants and may be administered on-site. If the results of the applicant's examination and screening indicate the presence of a controlled substance, the nursing home shall not employ the applicant unless and until the applicant provides to the nursing home written verification from the applicant's prescribing physician that every controlled substance identified by the examination and screening is prescribed by that physician to treat the applicant's medical or psychological condition. The verification from the physician shall include the name of the controlled substance, the prescribed dosage and frequency, and the condition for which the substance is prescribed. If the result of an applicant's or employee's examination and screening indicates the presence of a controlled substance, the nursing home may require a second examination and screening to verify the results of the prior examination and screening.

(b) A nursing home may require random examination and screening for controlled substances as a condition of continued employment. If the nursing home has reasonable grounds to believe that an employee is an abuser of a controlled substance, the nursing home may require that employee to undergo examination and screening for controlled substances as a condition of continued employment.

(c) A nursing home and an officer or employee of a nursing home that, in good faith, comply with this section are not liable for the failure of the nursing home to employ or continue the employment of an individual on the basis of the results of an examination and screening of the applicant or employee for controlled substances.

(d) An entity and officers and employees of an entity that perform controlled substance examination and screening in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune from civil liability for conducting or failing to conduct the examination and screening if the examination and screening are requested and received in compliance with this section and with Article 20 of Chapter 95 of the General Statutes.

(e) The results of an examination and screening conducted at the request of a nursing home in accordance with this section are confidential and not a public record under Chapter 132 of the General Statutes. The nursing home shall maintain the confidentiality of all information related to the examination and screening of an applicant for employment or an individual currently employed by the nursing home.

(f) The nursing home shall pay expenses related to controlled substance examination and screening pursuant to this section, except examinee-requested retests. The examinee shall pay all reasonable expenses for retests of confirmed positive results."

SECTION 3. This act becomes effective October 1, 2013.

In the General Assembly read three times and ratified this the 13th day of June,
2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____ .m. this _____ day of _____, 2013