

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 432

Children & Human Resources Committee Substitute Adopted 4/26/99

Short Title: Health Care Personnel Registry Changes.

(Public)

Sponsors:

Referred to:

March 22, 1999

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE FACILITIES THAT ARE INCLUDED IN THE HEALTH CARE PERSONNEL REGISTRY; AND TO REQUIRE THAT EMPLOYERS AT HEALTH CARE FACILITIES ACCESS THE HEALTH CARE PERSONNEL REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 131E-256 reads as rewritten:

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

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

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

a. Neglect or abuse of a resident in a health care facility or a person to whom home care services as defined by G.S. 131E-136 or hospice services as defined by G.S. 131E-201 are being provided.

b. Misappropriation of the property of a resident in a health care facility, as defined in subsection (b) of this section including places where home care services as defined by G.S. 131E-136 or

- 1 hospice services as defined by G.S. 131E-201 are being
2 provided.
- 3 c. Misappropriation of the property of a health care facility.
4 d. Diversion of drugs belonging to a health care facility or to a
5 patient or client.
6 e. Fraud against a health care facility or against a patient or client
7 for whom the employee is providing services.
- 8 (2) Been accused of any of the acts listed in subdivision (1) of this
9 subsection, but only after the Department has screened the allegation
10 and determined that an investigation is required.

11 The ~~health care personnel registry~~ Health Care Personnel Registry shall also contain all
12 findings by the Department of neglect of a resident in a nursing facility or abuse of a
13 resident in a nursing facility or misappropriation of the property of a resident in a nursing
14 facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

15 (b) For the purpose of this section, the following are considered to be 'health care
16 facilities':

- 17 (1) Adult Care Homes as defined in G.S. 131D-2.
18 (2) Hospitals as defined in G.S. 131E-76.
19 (3) Home Care Agencies as defined in G.S. 131E-136.
20 (4) Nursing Pools as defined by G.S. 131E-154.2.
21 (5) Hospices as defined by G.S. 131E-201.
22 (6) Nursing Facilities as defined by G.S. 131E-255.
23 (7) State-Operated Facilities as ~~set forth in G.S. 122C-22.~~ defined in G.S.
24 122C-3(14)f.
25 (8) Residential Facilities ~~and Hospitals for the Mentally Ill,~~
26 ~~Developmentally Disabled, or Substance Abusers licensed pursuant to~~
27 ~~G.S. 122C-23.~~ as defined in G.S. 122C-3(14)e.
28 (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g.

29 (c) For the purpose of this section, the following are considered to be 'health care
30 personnel':

- 31 (1) In an adult care home, an adult care personal aide who is any person
32 who either performs or directly supervises others who perform task
33 functions in activities of daily living which are personal functions
34 essential for the health and well-being of residents such as bathing,
35 dressing, personal hygiene, ambulation or locomotion, transferring,
36 toileting, and eating.
- 37 (2) A nurse aide.
38 (3) An in-home aide or an in-home personal care aide who provides hands-
39 on paraprofessional services.
40 (4) Unlicensed assistant personnel who provide hands-on care, including,
41 but not limited to, habilitative aides and health care technicians.

42 (d) Health care personnel who wish to contest findings under subdivision (a)(1) of
43 this section are entitled to an administrative hearing as provided by the Administrative

1 Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall
2 be filed within 30 days of the mailing of the written notice of the Department's intent to
3 place its findings about the person in the ~~health care personnel registry~~. Health Care
4 Personnel Registry.

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

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

17 (e) The Department shall provide an employer or potential employer of any person
18 listed on the ~~health care personnel registry~~ of Health Care Personnel Registry of the nature
19 of the finding or allegation and the status of the investigation.

20 (f) No person shall be liable for providing any information for the health care
21 personnel registry if the information is provided in good faith. Neither an employer,
22 potential employer, nor the Department shall be liable for using any information from the
23 health care personnel registry if the information is used in good faith for the purpose of
24 screening prospective applicants for employment or reviewing the employment status of
25 an employee.

26 (g) Upon investigation and documentation, health care facilities shall ensure that
27 the Department is notified of all substantiated allegations against health care personnel
28 which appear to a reasonable person to be related to any act listed in subdivision (a)(1) of
29 this section, and shall promptly report to the Department any resulting disciplinary action,
30 demotion, or termination of employment of health care personnel.

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

33 Section 2. This act becomes effective July 1, 1999.