

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-159
HOUSE BILL 1258

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 31st day of May, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:23 p.m. this 8th day of June, 1999