GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

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SENATE DRS85012-SHz-3* (11/15)

Short Title:	Health Care Personnel Registry/Funds.	
Sponsors:	Senators Malone, Dannelly, Dorsett, Allran, and Bingham.	
Referred to:		

1		A BILL TO BE ENTITLED
2	AN ACT TO EXPA	ND THE HEALTH CARE PERSONNEL REGISTRY BY
3	AMENDING THE	E DEFINITIONS OF HEALTH CARE FACILITIES AND
4	HEALTH CARE	PERSONNEL, AND TO APPROPRIATE FUNDS TO THE
5		ACILITY SERVICES FOR ADDITIONAL STAFFING, AS
6		BY THE NORTH CAROLINA STUDY COMMISSION ON
7	AGING.	
8	The General Assembly	of North Carolina enacts:
9	•	• G.S. 131E-256 reads as rewritten:
10	"§ 131E-256. Health	Care Personnel Registry.
11	(a) The Departm	nent 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 ha	ve:
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	с.	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.

2 for whom the employee is providing services. 3 (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. 6 The 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 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. 10 (a) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section. 13 (b) For the purpose of this section, the following are considered to be "health care facilities": 15 (1) Adult Care Homes as defined in G.S. 131E-136. 18 (4) Nursing Pools as defined by G.S. 131E-154.2. 19 (5) Hoxpices as defined by G.S. 131E-255. 11 (10) Licensable Facilities as defined in G.S. 122C-3(14)f. 18 (4) Nursing Facilities as defined in G.S. 122C-3(14)e. 23 (9) 24-Hour Facilities as defined in G.S. 122C-3(14)b. 24 (10) Licensable Facilities as defined in G.S. 122C-3(14)b. 25 (11) Multiunit Assisted Housing with Services as defined i	 (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 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 abuse of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255. (a1) The Department shall include in the registry a brief statement of any individual disputing the finding entered against the individual in the health care personnel registry pursuant to subdivision (1) of subsection (a) of this section. (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. 131E-76. (2) Hospitals as defined by G.S. 131E-154. (3) Home Care Agencies as defined in G.S. 131E-154. (4) Nursing Pools as defined by G.S. 131E-255. (5) Hospices as defined by G.S. 131E-201. (6) Nursing Facilities as defined in G.S. 122C-3(14)f. (7) State-Operated Facilities as defined in G.S. 122C-3(14)g. (9) 24-Hour Facilities as defined in G.S. 122C-3(14)g. (10) Licensable Facilities as defined in G.S. 122C-3(14)g. (12) Community-Based Providers of Services funded through the Home and Community Care Block Grant Program in accordance with G.S. 131E-122. (13) Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 131E-181.1(a)11. (c) For the purpose of this section, the term "health care personnel" means any unlicensed staff of a health care facility unlicensed staff that during the course of employment has the opopruntity for direct contact with an individual or a individual	1	e. Fraud against a health care facility or against a patient or client
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1 A nurse aide. (2)

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

4 5

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

6 (d) Health care personnel who wish to contest findings under subdivision (a)(1)7 of this section are entitled to an administrative hearing as provided by the 8 Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a 9 contested case shall be filed within 30 days of the mailing of the written notice of the 10 Department's intent to place its findings about the person in the Health Care Personnel 11 Registry.

12 (d1) Health care personnel who wish to contest the placement of information 13 under subdivision (a)(2) of this section are entitled to an administrative hearing as 14 provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A 15 petition for a contested case hearing shall be filed within 30 days of the mailing of the 16 written notice of the Department's intent to place information about the person in the 17 Health Care Personnel Registry under subdivision (a)(2) of this section. Health care 18 personnel who have filed a petition contesting the placement of information in the 19 health care personnel registry under subdivision (a)(2) of this section are deemed to 20 have challenged any findings made by the Department at the conclusion of its 21 investigation.

22 (d2) Before hiring health care personnel into a health care facility or service, every 23 employer at a health care facility shall access the Health Care Personnel Registry and 24 shall note each incident of access in the appropriate business files.

25 (e) The Department shall provide an employer at a health care facility or potential employer at a health care facility of any person listed on the Health Care 26 27 Personnel Registry information concerning the nature of the finding or allegation and 28 the status of the investigation.

29 No person shall be liable for providing any information for the health care (f)30 personnel registry if the information is provided in good faith. Neither an employer, 31 potential employer, nor the Department shall be liable for using any information from 32 the health care personnel registry if the information is used in good faith for the purpose 33 of screening prospective applicants for employment or reviewing the employment status 34 of an employee.

35 (g) Health care facilities shall ensure that the Department is notified of all 36 allegations against health care personnel, including injuries of unknown source, which 37 appear to be related to any act listed in subdivision (a)(1) of this section. Facilities must 38 have evidence that all alleged acts are investigated and must make every effort to 39 protect residents from harm while the investigation is in progress. The results of all 40 investigations must be reported to the Department within five working days of the initial 41 notification to the Department.

42 The North Carolina Medical Care Commission shall adopt, amend, and repeal (h) 43 all rules necessary for the implementation of this section.

1 2	(i) In the case of a finding of neglect under subdivision (1) of subsection (a) of this section, the Department shall establish a precedure to permit health are personnal.
2 3	this section, the Department shall establish a procedure to permit health care personnel
-	to petition the Department to have his or her name removed from the registry upon a
4	determination that:
5	(1) The employment and personal history of the nurse aid does not reflect
6	a pattern of abusive behavior or neglect;
7	(2) The neglect involved in the original finding was a singular occurrence;
8	and
9	(3) The petition for removal is submitted after the expiration of the
10	one-year period which began on the date the petitioner's name was
11	added to the registry under subdivision (1) of subsection (a) of this
12	section."
13	SECTION 2. There is appropriated from the General Fund to the
14	Department of Health and Human Services, Division of Facility Services, the sum of
15	one million seven hundred thousand dollars (\$1,700,000) for the 2007-2008 fiscal year
16	and the sum of one million seven hundred thousand dollars (\$1,700,000) for the
17	2008-2009 fiscal year to establish positions to handle increases in allegations and
18	investigations resulting from this act and prior acts expanding the coverage of the
19	Health Care Personnel Registry.
20	SECTION 3. Section 1 of this act becomes effective January 1, 2008.
21	Section 2 of this act becomes effective July 1, 2007. The remainder of this act is
22	effective when it becomes law.