

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-346
SENATE BILL 488**

AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO
INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-278(1) reads as rewritten:

"§ 90-278. Qualifications for licensure.

The Board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators.

(1) A license as a nursing home administrator shall be issued to any person upon the Board's determination ~~that~~that the person:

- a. ~~He is~~Is at least 18 years of age, of good moral character and of sound physical and mental health; and
- b. ~~He has~~Has successfully completed the equivalent of two years of college level study (60 semester hours or 96 quarter hours) from an accredited community college, college or university prior to application for licensure;
or
has completed a combination of education and experience, acceptable under rules promulgated by the Board, prior to application for licensure. Under this provision, two years of supervisory experience in a nursing home shall be equated to one year of college study;
- c. ~~He has~~Has satisfactorily completed a course prescribed by the Board, which course contains instruction on the services provided by nursing homes, laws governing nursing homes, protection of patient interests and nursing home administration; and
- d. ~~He has~~Has successfully completed ~~his~~the training period as an administrator-in-training as prescribed by the Board. If a person has served at least 12 weeks as a hospital administrator or assistant administrator of a hospital-based long-term care nursing unit or hospital-based swing beds licensed under Article 5 of Chapter 131E or Article 2 of Chapter 122C, the Board shall consider this experience comparable to the initial on-the-job portion of the administrator-in-training program only; and
- e. ~~He has~~Has passed ~~examinations administered by the Board and designed to test for competence in the subject matters referred to in paragraph e of this subdivision.~~the national and State examinations designed to test for competence in the subject matters referred to in sub-subdivision c. of this subdivision within one year from the date of completion of the administrator-in-training program.

...."

SECTION 2. G.S. 90-280 reads as rewritten:

"§ 90-280. Fees; display of license; duplicate license; inactive list.

(a) Each applicant for an examination administered by the Board and each applicant for an administrator-in-training program and reciprocity endorsement shall pay a processing fee set by the Board not to exceed ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00) plus the actual cost of the exam.



(b) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount set by the Board not to exceed ~~five hundred dollars (\$500.00)~~one thousand dollars (\$1,000). A license shall expire on the thirtieth day of September of the second year following its issuance and shall be renewable biennially upon payment of a renewal fee set by the Board not to exceed ~~five hundred dollars (\$500.00)~~one thousand dollars (\$1,000).

(c) Each person licensed as a nursing home administrator shall display his or her license certificate, along with the current certificate of renewal, in a conspicuous place in his or her place of employment.

(d) Any person licensed as a nursing home administrator may receive a duplicate license or verification of license by payment of a fee set by the Board not to exceed ~~twenty-five dollars (\$25.00)~~one hundred dollars (\$100.00).

(e) Any person licensed as a nursing home administrator who is not acting, serving, or holding himself or herself out to be a nursing home administrator may have his or her name placed on an inactive list for such period of time not to exceed four years upon payment of a fee set by the Board not to exceed ~~fifty dollars (\$50.00)~~two hundred dollars (\$200.00) per year. Each year during that four-year period, upon request and payment of the fee, the person's name may remain on an inactive list for one additional year.

(f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay a fee in an amount set by the Board not to exceed ~~two hundred dollars (\$200.00)~~five hundred dollars (\$500.00). If the Board renews the temporary license, no further fee shall be required.

(g) The Board may set fees not to exceed ~~two hundred and fifty dollars (\$250.00)~~one thousand dollars (\$1,000) for conducting and administering initial training and continuing education courses, and may set a fee not to exceed one hundred dollars (\$100.00) per hour for certifying a course submitted for review by another individual or agency wishing to offer such courses or may set an annual fee not to exceed ~~two thousand dollars (\$2,000)~~four thousand dollars (\$4,000) for certifying a course provider in lieu of certifying each course offered by the provider."

SECTION 3. G.S. 90-283 reads as rewritten:

"§ 90-283. Organization of Board; compensation; employees and services.

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter 93B of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board ~~may employ any necessary personnel to assist it in the performance of its duties and may contract for such services as may be~~ shall have the power to employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and clerical or other special personnel deemed necessary to carry out the provisions of this Article."

SECTION 4. G.S. 90-285(3) reads as rewritten:

"§ 90-285. Functions and duties of the Board.

The Board shall meet at least once annually in Raleigh or any other location designated by the chairman and shall have the following functions and duties:

- ...
- (3) Issue licenses to qualified ~~individuals~~individuals consistent with G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board implementing those provisions.
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SECTION 5. G.S. 90-285.1 reads as rewritten:

"§ 90-285.1. Suspension, revocation or refusal to issue a license.

The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

- (1) Has violated the provisions of this Article or the rules adopted by the Board;
- (2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;
- (3) Has been convicted of, or has tendered and has had accepted a plea of no contest to, a criminal offense showing professional unfitness;
- (4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a nursing home administrator license;

- (5) Is incompetent to engage in the practice of nursing home administration or to act as a nursing home administrator;
- (6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a nursing home administrator;
- (7) Has committed acts of misconduct in the operation of a nursing home under his jurisdiction;
- ~~(8) Is a habitual drunkard;~~
- (9) Is addicted or dependent upon the use of alcohol or any controlled substance, including morphine, opium, cocaine, or other drugs;
- (10) Has practiced without being registered biennially;
- (11) Has transferred or surrendered possession of, either temporarily or permanently, his or her license or certificate to any other person;
- (12) Has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage;
- (13) Has been guilty of fraudulent, misleading, or deceptive advertising;
- (14) Has falsely impersonated another licensee;
- (15) Has failed to exercise regard for the safety, health or life of the patient;
- (16) Has permitted unauthorized disclosure of information relating to a patient or his or her records; or
- (17) Has discriminated among patients, employees, or staff on account of race, ~~sex, gender,~~ religion, color, ~~or national origin.~~ national origin, mental or physical disability, or any other class protected by State or federal law."

SECTION 6. G.S. 90-287 reads as rewritten:

"§ 90-287. Reciprocity with other states.

The Board may issue a nursing home administrator's ~~license, without examination, license~~ to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the Board finds that the standards for licensure in such other jurisdiction are at least the substantial equivalent of those prevailing in this ~~State,~~ State and that the applicant has passed the national and the State examinations administered by the Board and is otherwise qualified."

SECTION 7. G.S. 90-288.01 reads as rewritten:

"§ 90-288.01. Criminal history record checks of applicants for licensure.

- (a) The following definitions apply in this section:
 - (1) Applicant. – A person applying for initial licensure pursuant to either G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to G.S. 90-286.
 - (2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure as a nursing home administrator. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering ~~Executive and Legislative~~ Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act,

Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) ~~Criminal History Record Check.~~ – The Board shall require a criminal history record check of all ~~applicants~~ applicants for initial licensure and temporary licensure. The Board, in its discretion, may require a criminal history record check of an applicant for license renewal. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) ~~Convictions.~~ – If the applicant's criminal history record check reveals one or more convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the applicant at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the applicant and the job duties of the position to be filled.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the applicant of a crime listed in subsection (a) of this section.

(d) ~~Denial of Licensure.~~ – ~~If Except as otherwise provided by law, if the Board refuses to issue or renew a license based on information obtained in a criminal history record check, the Board must disclose to the applicant the information contained in the criminal history record check that is relevant to the Board's actions. The Board shall not provide a copy of the criminal history record check to the applicant. An applicant has the right to appear before the Board to appeal the Board's decision. An appearance before the Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.~~

(e) ~~Limited Immunity.~~ – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for its actions based on information provided in an applicant's criminal history record check."

SECTION 8. Article 20 of Chapter 90 of the General Statutes is amended by adding the following new section to read:

"§ 90-288.02. Confidentiality of investigative records.

Records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of an investigation, inquiry, or interview conducted in connection with certification, licensure, or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges, notice of hearing, or decision rendered in connection with a hearing shall be a public record. Information that identifies a resident who has not consented to the public disclosure of services rendered to him or her by a person certified or licensed under this Chapter shall be deleted from the public record. All other records, papers, and documents containing information collected and compiled by or on behalf of the Board shall be public records, but any information that identifies a resident who has not consented to the public disclosure of services rendered to him or her shall be deleted."

SECTION 9. Any person who has met the qualifications for licensure and been issued a license as a nursing home administrator by the State Board of Examiners for Nursing Home Administrators on or before the effective date of Section 1 of this act shall be deemed to have complied with the requirements of G.S. 90-278(1) as enacted by Section 1 of this act.

SECTION 10. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 18th day of July, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:30 p.m. this 23rd day of July, 2013