

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1435

Short Title: Health Care Registry.

(Public)

Sponsors: Representatives Culp and Gardner.

Referred to: Human Resources, if favorable, Appropriations.

May 25, 1998

A BILL TO BE ENTITLED

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2 AN ACT TO APPROPRIATE FUNDS TO INCLUDE STATE-OPERATED
3 FACILITIES AND RESIDENTIAL FACILITIES AND HOSPITALS FOR THE
4 MENTALLY ILL, DEVELOPMENTALLY DISABLED, AND SUBSTANCE
5 ABUSERS IN THE HEALTH CARE PERSONNEL REGISTRY.

6 The General Assembly of North Carolina enacts:

7 Section 1. There is appropriated from the General Fund to the Department of
8 Health and Human Services the sum of two hundred thirty-three thousand three hundred
9 sixty-eight dollars (\$233,368) for the 1998-99 fiscal year to implement the requirements
10 of this act to include in the Health Care Personnel Registry State-operated facilities and
11 residential facilities and hospitals for the mentally ill, developmentally disabled, and
12 substance abusers.

13 Section 2. G.S. 131E-256 reads as rewritten:

14 "**§ 131E-256. Health Care Personnel Registry.**

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

18 (1) Been subject to findings by the Department of:
19 a. Neglect or abuse of a resident in a health care facility or a person
20 to whom 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 b. Misappropriation of the property of a resident in a health care
4 facility, as defined in subsection (b) of this section including
5 places where home care services as defined by G.S. 131E-136 or
6 hospice services as defined by G.S. 131E-201 are being
7 provided.
- 8 c. Misappropriation of the property of a health care facility.
- 9 d. Diversion of drugs belonging to a health care facility or to a
10 patient or client.
- 11 e. Fraud against a health care facility or against a patient or client
12 for whom the employee is providing services.
- 13 (2) Been accused of any of the acts listed in subdivision (1) of this
14 subsection, but only after the Department has screened the allegation
15 and determined that an investigation is required.

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

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

- 22 (1) Adult Care Homes as defined in G.S. 131D-2.
23 (2) Hospitals as defined in G.S. 131E-76.
24 (3) Home Care Agencies as defined in G.S. 131E-136.
25 (4) Nursing Pools as defined by G.S. 131E-154.2.
26 (5) Hospices as defined by G.S. 131E-201.
27 (6) Nursing Facilities as defined by G.S. 131E-255.
28 (7) State-Operated Facilities as set forth in G.S. 122C-22.
29 (8) Residential Facilities and Hospitals for the mentally ill, developmentally
30 disabled, or substance abusers licensed pursuant to G.S. 122C-23.

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

- 33 (1) In an adult care home, an adult care personal aide who is any person
34 who either performs or directly supervises others who perform task
35 functions in activities of daily living which are personal functions
36 essential for the health and well-being of residents such as bathing,
37 dressing, personal hygiene, ambulation or locomotion, transferring,
38 toileting, and eating.
- 39 (2) A nurse aide.
- 40 (3) An in-home aide or an in-home personal care aide who provides hands-
41 on paraprofessional services.

42 (d) Health care personnel who wish to contest a finding under subdivision (a)(1) of
43 this section or the placement of information under subdivision (a)(2) of this section are

1 entitled to an administrative hearing as provided by the Administrative Procedure Act,
2 Chapter 150B of the General Statutes. A petition for a contested case shall be filed within
3 30 days of the mailing of the written notice by certified mail of the Department's intent to
4 place information about the person in the health care personnel registry.

5 (e) The Department shall provide an employer or potential employer of any person
6 listed on the health care personnel registry of the nature of the finding or allegation and
7 the status of the investigation.

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

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

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

21 Section 3. This act becomes effective July 1, 1998.