

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 542

Short Title: Drug Testing For LTC Applicants & Employees. (Public)

Sponsors: Senators Cook, Jackson, Rabin (Primary Sponsors); and Meredith.

Referred to: Health Care.

April 1, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LONG-TERM CARE FACILITIES TO REQUIRE APPLICANTS
3 FOR EMPLOYMENT AND CERTAIN EMPLOYEES TO SUBMIT TO DRUG
4 TESTING FOR CONTROLLED SUBSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 5 of Chapter 131D of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 131D-45. Testing for the presence of controlled substances required for applicants for**
9 **employment in adult care homes.**

10 (a) An offer of employment by an adult care home licensed under this Article to an
11 applicant is conditioned on the applicant's consent to an examination and screening for
12 controlled substances. The examination and screening shall be conducted in accordance with
13 Article 20 of Chapter 95 of the General Statutes. If the results of the applicant's examination
14 and screening indicate the presence of a controlled substance, the adult care home shall not
15 employ the applicant unless the applicant first provides to the adult care home written
16 verification from the applicant's prescribing physician that every controlled substance identified
17 by the examination and screening is prescribed by that physician to treat the applicant's medical
18 or psychological condition. The verification from the physician shall include the name of the
19 controlled substance, the prescribed dosage and frequency, and the condition for which the
20 substance is prescribed. If the result of an applicant's or employee's examination and screening
21 indicates the presence of a controlled substance, the adult care home may require a second
22 examination and screening to verify the results of the prior examination and screening.

23 (b) An adult care home may require random testing for controlled substances as a
24 condition of continued employment. If the adult care home has reasonable grounds to believe
25 that an employee is an abuser of a controlled substance, the adult care home may require that
26 employee to undergo examination and screening for controlled substances as a condition of
27 continued employment.

28 (c) An adult care home and an officer or employee of an adult care home that, in good
29 faith, complies with this section is not liable for the failure of the adult care home to employ or
30 continue the employment of an individual on the basis of the results of an examination and
31 screening of the applicant or employee for controlled substances.

32 (d) An entity and officers and employees of an entity that performs controlled substance
33 testing in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune
34 from civil liability for conducting or failing to conduct the examination and screening if the
35 examination and screening are requested and received in compliance with this section and with
36 Article 20 of Chapter 95 of the General Statutes.



1 (e) The results of an examination and screening conducted at the request of an adult
2 care home in accordance with this section are confidential and not a public record under
3 Chapter 132 of the General Statutes. The adult care home shall maintain the confidentiality of
4 all information related to the examination and screening of an applicant for employment or an
5 individual currently employed by the adult care home."

6 **SECTION 2.** Part 1 of Article 6 of Chapter 131E of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 131E-114.4. Testing for the presence of controlled substances required for applicants**
9 **for employment in nursing homes.**

10 (a) An offer of employment by a nursing home licensed under this Part to an applicant
11 is conditioned on the applicant's consent to an examination and screening for controlled
12 substances. The examination and screening shall be conducted in accordance with Article 20 of
13 Chapter 95 of the General Statutes. If the results of the applicant's examination and screening
14 indicate the presence of a controlled substance, the nursing home shall not employ the applicant
15 unless and until the applicant provides to the nursing home written verification from the
16 applicant's prescribing physician that every controlled substance identified by the examination
17 and screening is prescribed by that physician to treat the applicant's medical or psychological
18 condition. The verification from the physician shall include the name of the controlled
19 substance, the prescribed dosage and frequency, and the condition for which the substance is
20 prescribed. If the result of an applicant's or employee's examination and screening indicate the
21 presence of a controlled substance, the nursing home may require a second examination and
22 screening to verify the results of the prior examination and screening.

23 (b) A nursing home may require random testing for controlled substances as a condition
24 of continued employment. If the nursing home has reasonable grounds to believe that an
25 employee is an abuser of a controlled substance, the nursing home may require that employee
26 to undergo examination and screening for controlled substances as a condition of continued
27 employment.

28 (c) A nursing home and an officer or employee of a nursing home that, in good faith,
29 complies with this section is not liable for the failure of the nursing home to employ or
30 continue the employment of an individual on the basis of the results of an examination and
31 screening of the applicant or employee for controlled substances.

32 (d) An entity and officers and employees of an entity that performs controlled substance
33 testing in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune
34 from civil liability for conducting or failing to conduct the examination and screening if the
35 examination and screening are requested and received in compliance with this section and with
36 Article 20 of Chapter 95 of the General Statutes.

37 (e) The results of an examination and screening conducted at the request of a nursing
38 home in accordance with this section are confidential and not a public record under Chapter
39 132 of the General Statutes. The nursing home shall maintain the confidentiality of all
40 information related to the examination and screening of an applicant for employment or an
41 individual currently employed by the adult care home."

42 **SECTION 3.** This act becomes effective October 1, 2013.