

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 488
Health Care Committee Substitute Adopted 5/2/13
House Committee Substitute Favorable 7/11/13
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Short Title: Amend Nursing Home Administrator Act/Fees.

(Public)

Sponsors:

Referred to:

March 28, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO
3 INCREASE CERTAIN FEES.

4 The General Assembly of North Carolina enacts:

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

6 "**§ 90-278. Qualifications for licensure.**

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

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

11 a. ~~He is~~Is at least 18 years of age, of good moral character and of sound
12 physical and mental health; and

13 b. ~~He has~~Has successfully completed the equivalent of two years of
14 college level study (60 semester hours or 96 quarter hours) from an
15 accredited community college, college or university prior to
16 application for licensure;

17 or

18 has completed a combination of education and experience,
19 acceptable under rules promulgated by the Board, prior to application
20 for licensure. Under this provision, two years of supervisory
21 experience in a nursing home shall be equated to one year of college
22 study;

23 c. ~~He has~~Has satisfactorily completed a course prescribed by the Board,
24 which course contains instruction on the services provided by
25 nursing homes, laws governing nursing homes, protection of patient
26 interests and nursing home administration; and

27 d. ~~He has~~Has successfully completed ~~his~~the training period as an
28 administrator-in-training as prescribed by the Board. If a person has
29 served at least 12 weeks as a hospital administrator or assistant
30 administrator of a hospital-based long-term care nursing unit or
31 hospital-based swing beds licensed under Article 5 of Chapter 131E
32 or Article 2 of Chapter 122C, the Board shall consider this
33 experience comparable to the initial on-the-job portion of the
34 administrator-in-training program only; and



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- 1 e. ~~He has~~Has passed examinations administered by the Board and
2 ~~designed to test for competence in the subject matters referred to in~~
3 ~~paragraph c of this subdivision.~~the national and State examinations
4 designed to test for competence in the subject matters referred to in
5 sub-subdivision c. of this subdivision within one year from the date
6 of completion of the administrator-in-training program.

7"

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

9 **"§ 90-280. Fees; display of license; duplicate license; inactive list.**

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

14 (b) Each person licensed as a nursing home administrator shall be required to pay a
15 license fee in an amount set by the Board not to exceed ~~five hundred dollars (\$500.00)~~one
16 thousand dollars (\$1,000). A license shall expire on the thirtieth day of September of the
17 second year following its issuance and shall be renewable biennially upon payment of a
18 renewal fee set by the Board not to exceed ~~five hundred dollars (\$500.00)~~one thousand dollars
19 (\$1,000).

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

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

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

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

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

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

43 **"§ 90-283. Organization of Board; compensation; employees and services.**

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

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

2 "**§ 90-285. Functions and duties of the Board.**

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

5 ...

- 6 (3) Issue licenses to qualified ~~individuals~~individuals consistent with
7 G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board
8 implementing those provisions.

9 "

10 **SECTION 5.** G.S. 90-285.1 reads as rewritten:

11 "**§ 90-285.1. Suspension, revocation or refusal to issue a license.**

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

- 15 (1) Has violated the provisions of this Article or the rules adopted by the Board;
16 (2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the
17 General Statutes and rules promulgated thereunder;
18 (3) Has been convicted of, or has tendered and has had accepted a plea of no
19 contest to, a criminal offense showing professional unfitness;
20 (4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a
21 nursing home administrator license;
22 (5) Is incompetent to engage in the practice of nursing home administration or to
23 act as a nursing home administrator;
24 (6) Has practiced fraud, deceit, or misrepresentation in his or her capacity as a
25 nursing home administrator;
26 (7) Has committed acts of misconduct in the operation of a nursing home under
27 his jurisdiction;
28 ~~(8) Is a habitual drunkard;~~
29 (9) Is addicted or dependent upon the use of alcohol or any controlled substance,
30 including morphine, opium, cocaine, or other drugs;
31 (10) Has practiced without being registered biennially;
32 (11) Has transferred or surrendered possession of, either temporarily or
33 permanently, his or her license or certificate to any other person;
34 (12) Has paid, given, has caused to be paid or given or offered to pay or to give to
35 any person a commission or other valuable consideration for the solicitation
36 or procurement, either directly or indirectly, of nursing home patronage;
37 (13) Has been guilty of fraudulent, misleading, or deceptive advertising;
38 (14) Has falsely impersonated another licensee;
39 (15) Has failed to exercise regard for the safety, health or life of the patient;
40 (16) Has permitted unauthorized disclosure of information relating to a patient or
41 his or her records; or
42 (17) Has discriminated among patients, employees, or staff on account of race,
43 ~~sex, gender,~~ religion, color, ~~or national origin~~national origin, mental or
44 physical disability, or any other class protected by State or federal law."

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

46 "**§ 90-287. Reciprocity with other states.**

47 The Board may issue a nursing home administrator's ~~license, without examination, license~~
48 to any person who holds a current license as a nursing home administrator from another
49 jurisdiction, provided that the Board finds that the standards for licensure in such other
50 jurisdiction are at least the substantial equivalent of those prevailing in this ~~State,~~State and that

1 the applicant has passed the national and the State examinations administered by the Board and
2 is otherwise qualified."

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

4 **"§ 90-288.01. Criminal history record checks of applicants for licensure.**

5 (a) The following definitions apply in this section:

6 (1) Applicant. – A person applying for initial licensure pursuant to either
7 G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to
8 G.S. 90-286.

9 (2) Criminal history. – A history of conviction of a state or federal crime,
10 whether a misdemeanor or felony, that bears on an applicant's fitness for
11 licensure as a nursing home administrator. The crimes include the criminal
12 offenses set forth in any of the following Articles of Chapter 14 of the
13 General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes;
14 Article 5A, Endangering ~~Executive and Legislative~~ Executive, Legislative,
15 and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex
16 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
17 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
18 or Material; Article 14, Burglary and Other Housebreakings; Article 15,
19 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article
20 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
21 Obtaining Property or Services by False or Fraudulent Use of Credit Device
22 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
23 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public
24 Morality and Decency; Article 26A, Adult Establishments; Article 27,
25 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct
26 in Public Office; Article 35, Offenses Against the Public Peace; Article 36A,
27 Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors;
28 Article 40, Protection of the Family; Article 59, Public Intoxication; and
29 Article 60, Computer-Related Crime. The crimes also include possession or
30 sale of drugs in violation of the North Carolina Controlled Substances Act,
31 Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses,
32 including sale to underage persons in violation of G.S. 18B-302 or driving
33 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

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

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

50 (1) The level of seriousness of the crime.

51 (2) The date of the crime.

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

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

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

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

22 **"§ 90-288.02. Confidentiality of investigative records.**

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

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

38 **SECTION 10.** This act is effective when it becomes law.