

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

2

SENATE BILL 245\*  
Second Edition Engrossed 3/30/89

Short Title: Health Care Licensing.

(Public)

---

Sponsors: Senators Ward; Barker, Block, Carpenter, Cochrane, Conder, Ezzell, Hardin, Hunt of Moore, Martin of Guilford, Marvin, Murphy, Rauch, Raynor, Royall, Sands, Shaw, Sherron, Smith, Speed, Staton, Swain, Taft, Tally, and Walker.

---

Referred to: Human Resources.

---

February 22, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE THE NURSING POOL AND THE HOME CARE AGENCY  
LICENSURE ACTS.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 131E of the General Statutes is amended by adding the following new Parts to read:

**“PART E. NURSING POOL LICENSURE ACT.**

**“§ 131E-154.1. Title; purpose.**

(a) This Part shall be known as ‘Nursing Pool Licensure Act’.

(b) The purpose of this Part is to establish licensing requirements for nursing pools.

**“§ 131E-154.2. Definitions.**

As used in this Part, unless the context clearly implies otherwise:

(1) ‘Commission’ means the North Carolina Medical Care Commission.

(2) ‘Department’ means the Department of Human Resources.

(3) ‘Health Care Facility’ means a hospital, psychiatric facility; rehabilitation facility; long term care facility; home health agency; intermediate care facility for the mentally retarded; chemical dependency treatment facility; and ambulatory surgical facility.

(4) ‘Nursing pool’ means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring

1           temporary employment in health care facilities for nursing personnel,  
2           including nurses, nursing assistants, nurses aides, and orderlies.  
3           'Nursing pool' does not include an individual who engages solely in  
4           providing his own services on a temporary basis to health care  
5           facilities.

6    **"§ 131E-154.3. Licensing.**

7       (a)   No person shall operate or represent himself to the public as operating a  
8       nursing pool without obtaining a license from the Department.

9       (b)   The Department shall provide applications for nursing pool licensure. Each  
10       application filed with the Department shall contain all information requested. A license  
11       shall be granted to the applicant upon a determination by the Department that the  
12       applicant has complied with the provisions of this Part and with the rules adopted by the  
13       Commission. Each license shall be issued only for the premises and persons named,  
14       shall not be transferrable or assignable except with the written approval of the  
15       Department, and shall be posted in a conspicuous place on the licensed premises.

16       (c)   The Department shall renew the license in accordance with this Part and with  
17       rules adopted pursuant to it.

18    **"§ 131E-154.4. Rules and Enforcement.**

19       (a)   The Commission shall adopt, amend, and repeal all rules necessary for the  
20       implementation of this Part. These rules shall include the following requirements:

21           (1)   The nursing pool shall document that each employee who provides  
22           care meets the minimum licensing, training, and continuing education  
23           standards for the position in which the employee will be working;

24           (2)   The nursing pool shall comply with all other pertinent regulations  
25           relating to the health and other qualifications of personnel;

26           (3)   The nursing pool shall carry general and professional liability  
27           insurance to insure against the loss, damage, or expense incident to a  
28           claim arising out of the death or injury of any person as the result of  
29           negligence or malpractice in the provision of health care services by  
30           the nursing pool or its employees;

31           (4)   The nursing pool shall have written administrative and personnel  
32           policies to govern the services that it provides. These policies shall  
33           include those concerning patient care, personnel, training and  
34           orientation, supervision, employee evaluation, and organizational  
35           structure; and

36           (5)   Any other aspects of nursing pool services that may need to be  
37           regulated to protect the public.

38       (b)   The Commission shall adopt no rules pertaining to the regulation of charges  
39       by the nursing pool or to wages paid by the nursing pool.

40    **"§ 131E-154.5. Inspections.**

41       The Department shall inspect all nursing pools that are subject to rules adopted  
42       pursuant to this Part in order to determine compliance with the provisions of this Part  
43       and with rules adopted pursuant to it. Inspections shall be conducted in accordance with  
44       rules adopted by the Commission.

1 **"§ 131E-154.6. Adverse action on a license; appeal procedures.**

2 (a) The Department may suspend, revoke, annul, withdraw, recall, cancel, or  
3 amend a license when there has been a substantial failure to comply with the provisions  
4 of this Part or with the rules adopted pursuant to it.

5 (b) The provisions of Chapter 150B of the General Statutes, the Administrative  
6 Procedure Act, shall govern all administrative action and judicial review in cases in  
7 which the Department has taken the action described in subsection (a) of this section.

8 **"§ 131E-154.7. Injunction.**

9 (a) Notwithstanding the existence or pursuit of any other remedy, the Department  
10 may maintain an action in the name of the State for injunctive relief or other process  
11 against any person to restrain or prevent the establishment, conduct, management, or  
12 operation of a nursing pool without a license or to restrain or prevent substantial  
13 noncompliance with this Part or the rules adopted pursuant to it.

14 (b) If any person hinders the proper performance of duty of the Department in  
15 carrying out the provisions of this Part, the Department may institute an action in the  
16 superior court of the county in which the hindrance occurred for injunctive relief against  
17 the continued hindrance.

18 **"§ 131E-154.8. Confidentiality.**

19 (a) Notwithstanding G.S. 8-53 or any other law pertaining to confidentiality of  
20 communications between physician and patient, in the course of an inspection  
21 conducted pursuant to G.S. 131E-154.15:

22 (1) Department representatives may review any writing or other record  
23 concerning the admission, discharge, medication, treatment, medical  
24 condition, or history of any person who is or has been a nursing pool  
25 patient; and

26 (2) Any person involved in treating a patient at or through a nursing pool  
27 may disclose information to a Department representative unless the  
28 patient objects in writing to review of his records or disclosure of the  
29 information. A nursing pool shall not release any information or allow  
30 any inspections under this section without first informing each affected  
31 patient in writing of his right to object to and thus prohibit release of  
32 information or review of records pertaining to him.

33 A nursing pool, its employees, and any other person interviewed in the course of an  
34 inspection shall be immune from liability for damages resulting from disclosure of the  
35 information to the Department.

36 (b) The Department shall not disclose:

37 (1) Any confidential or privileged information obtained under this section  
38 unless the patient or his legal representative authorizes disclosure in  
39 writing or unless a court of competent jurisdiction orders disclosure; or

40 (2) The name of anyone who has furnished information concerning a  
41 nursing pool without that person's consent.

42 The Department shall institute appropriate policies and procedures to ensure that  
43 unauthorized disclosure does not occur. Any Department employee who willfully  
44 discloses this information without appropriate authorization or court order shall be

1 guilty of a misdemeanor and, upon conviction, fined at the discretion of the court but  
2 not in excess of five hundred dollars (\$500.00).

3 (c) All confidential or privileged information obtained under this section and the  
4 names of all persons providing this information are exempt from Chapter 132 of the  
5 General Statutes."

6 Sec. 2. The North Carolina Study Commission on Aging established by  
7 Article 21 of Chapter 120 of the General Statutes may study the need for regulation of  
8 agencies not licensed under State statute or certified for Medicare that provide nursing  
9 and nurse's aide services to persons at home. The North Carolina Study Commission on  
10 Aging may report its findings, including any legislature recommendations, to the 1991  
11 General Assembly.

12 Sec. 3. This act shall become effective October 1, 1989.