

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 245*
Second Edition Engrossed 3/30/89
House Committee Substitute Favorable 5/30/89

Short Title: Health Care Licensing.

(Public)

Sponsors:

Referred to:

February 22, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE NURSING POOL LICENSURE ACT.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 131E of the General Statutes is amended by adding the
5 following new Part to read:

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

7 **“§ 131E-154.1. Title; purpose.**

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

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

11 **“§ 131E-154.2. Definitions.**

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

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

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

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

19 (4) ‘Nursing pool’ means any person, firm, corporation, partnership, or
20 association engaged for hire in the business of providing or procuring
21 temporary employment in health care facilities for nursing personnel,
22 including nurses, nursing assistants, nurses aides, and orderlies.

1 'Nursing pool' does not include an individual who engages solely in
2 providing his own services on a temporary basis to health care
3 facilities.

4 **"§ 131E-154.3. Licensing.**

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

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

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

16 (d) Nursing pools administered by health care facilities and agencies licensed
17 under Article 5 or 6 of Chapter 131E of the General Statutes shall not be required to be
18 separately licensed under this Article. However, any facility or agency exempted from
19 licensure as a nursing pool under this subsection shall be subject to rules adopted
20 pursuant to this Article.

21 **"§ 131E-154.4. Rules and enforcement.**

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

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

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

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

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

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

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

43 **"§ 131E-154.5. Inspections.**

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

5 **"§ 131E-154.6. Adverse action on a license; appeal procedures.**

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

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

12 **"§ 131E-154.7. Injunction.**

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

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

22 **"§ 131E-154.8. Confidentiality.**

23 (a) Notwithstanding G.S. 8-53 or any other law pertaining to confidentiality of
24 communications between physician and patient, in the course of an inspection
25 conducted pursuant to G.S. 131E-154.5:

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

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

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

40 (b) The Department shall not disclose:

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

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

3 The Department shall institute appropriate policies and procedures to ensure that
4 unauthorized disclosure does not occur. Any Department employee who willfully
5 discloses this information without appropriate authorization or court order shall be
6 guilty of a misdemeanor and, upon conviction, fined at the discretion of the court but
7 not in excess of five hundred dollars (\$500.00).

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

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

17 Sec. 3. This act shall become effective April 1, 1990.