

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 713
SENATE BILL 855

AN ACT TO AUTHORIZE PUBLIC HOSPITALS TO DEVELOP VARIOUS
MANAGED CARE ORGANIZATIONS AND MANAGED CARE PRODUCTS
WITH PROVIDERS AND INSURERS, TO AMEND THE PUBLIC RECORDS
LAW, AND TO PROVIDE A HEALTH CARE PERSONNEL REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 131E of the General Statutes is amended by inserting a new section to read:

"§ 131E-7.1. Public hospitals' managed care development authorized.

A public hospital as defined in G.S. 159-39(a) may acquire an ownership interest, in whole or in part, in a nonprofit or for-profit managed care company, including a health maintenance organization, physician hospital organization, physician organization, management services organization, or preferred provider organization with which the public hospital is also directly or indirectly a contracting provider. Ownership interest may be evidenced by the ownership or acquired by the purchase of stock. This ownership or acquisition of stock is the exercise of a health care function and is not the investment of idle funds within the meaning of G.S. 159-30 and G.S.159-39(g)."

Sec. 2. Part F of Article 5 of Chapter 131E of the General Statutes is amended by adding the following new section:

"§ 131E-99. Confidentiality of health care contracts.

The financial terms or other competitive health care information in a contract related to the provision of health care between a hospital and a managed care organization, insurance company, employer, or other payer is confidential and not a public record under Chapter 132 of the General Statutes."

Sec. 3. (a) G.S. 131E-111 is recodified as G.S. 131E-255.

(b) Chapter 131E of the General Statutes is amended by adding a new Article to read:

"ARTICLE 15.

"Health Care Personnel Registry.

"§ 131E-411. § 131E-255. Nurse Aide Registry.

(a) Pursuant to 42 U.S.C. § 1395i-3(e) and 42 U.S.C. § 1396r(e), the Department shall establish and maintain a registry containing the names of all nurse aides working in nursing facilities in North Carolina. The Department shall include in the nurse aide registry any findings by the Department of neglect of a resident in a nursing facility or

abuse of a resident in a nursing facility or misappropriation of the property of a resident in a nursing facility by a nurse aide.

(b) A nurse aide who wishes to contest a finding of resident neglect, resident abuse, or misappropriation of resident property made against the aide, is entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days ~~after the nurse aide receives of the mailing of the~~ written notice by certified mail of the Department's intent to place findings against the aide in the nurse aide registry.

(c) 'Nursing facility', as used in this section, means a 'combination home' as defined in G.S. 131E-101(1) and a 'nursing home' as defined in G.S. 131E-101(6) and also means 'facility' as that term is defined in G.S. 131E-116(2).

(d) The Commission shall adopt, amend, and repeal all rules necessary for the implementation of this section.

(e) No person shall be liable for providing any information for the nurse aide registry if the information is provided in good faith. Neither an employer, potential employer, nor the Department shall be liable for using any information from the nurse aide registry if the information is used in good faith for the purpose of screening prospective applicants for employment or reviewing the employment status of an employee.

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

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

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

The health care personnel registry shall also contain all findings by the Department of neglect of a resident in a nursing facility or abuse of a resident in a nursing facility or

misappropriation of the property of a resident in a nursing facility by a nurse aide that are contained in the nurse aide registry under G.S. 131E-255.

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

- (1) Adult Care Homes as defined in G.S. 131D-2.
- (2) Hospitals as defined in G.S. 131E-76.
- (3) Home Care Agencies as defined in G.S. 131E-136.
- (4) Nursing Pools as defined by G.S. 131E-154.2.
- (5) Hospices as defined by G.S. 131E-201.
- (6) Nursing Facilities as defined by G.S. 131E-255.

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

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

(d) Health care personnel who wish to contest a finding under subdivision (a)(1) of this section or the placement of information under subdivision (a)(2) of this section are entitled to an administrative hearing as provided by the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days of the mailing of the written notice by certified mail of the Department's intent to place information about the person in the health care personnel registry.

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

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

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

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

(c) The North Carolina Medical Care Commission shall monitor the implementation of the Health Care Personnel Registry and shall report to the General Assembly in 1998 any amendments needed to implement the purposes of the Health Care Personnel Registry.

(d) Of the funds appropriated from the General Fund to the Department of Human Resources for fiscal year 1996-97 the sum of one hundred sixty thousand dollars (\$160,000) shall be used to implement this section.

Sec. 4. This act is effective upon ratification. Section 2 of this act shall not affect any litigation pending as of the effective date of Section 2. Section 2 of this act expires June 1, 1997.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives