Article 16.

Miscellaneous Provisions.

§ 131E-265. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to an applicant to fill a position that requires entering the patient's home is conditioned on consent to a criminal history record check of the applicant. In addition, employment status change of a current employee of a home care agency licensed under this Chapter from a position that does not require entering the patient's home to a position that requires entering the patient's home shall be conditioned on consent to a criminal history record check of that current employee. If the applicant for employment or if the current employee who is changing employment status has been a resident of this State for less than five years, then the offer of employment or change in employment status is conditioned on consent to a State and national criminal history record check. The national criminal history record check shall include a check of the applicant's or current employee's fingerprints. If the applicant or current employee has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant or current employee applying for a change in employment status. A nursing home or a home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. In addition, a home care agency shall not change a current employee's employment status from a position that does not require entering the patient's home to a position that requires entering the patient's home who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a nursing home or home care agency shall submit a request to the State Bureau of Investigation under G.S. 143B-1209.20 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 143B-1209.20, the State Bureau of Investigation shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the nursing home or home care agency. Nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home or agency is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer of employment by a contract agency of a nursing home or home care agency licensed under this

Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of a nursing home or home care agency shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, a contract agency of a nursing home or home care agency shall submit a request to the State Bureau of Investigation under G.S. 143B-1209.20 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding G.S. 143B-1209.20, the State Bureau of Investigation shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

(b) Action. – If an applicant's criminal history record check reveals one or more convictions of a relevant offense, the nursing home or home care agency, or the contract agency of a nursing home or home care agency, shall consider all of the following factors in determining whether to hire the applicant:

(1) The level and seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed.
(7) The subsequent commission by the person of a relevant offense.

The fact of conviction of a relevant offense alone shall not be a bar to employment; however, the listed factors shall be considered by the nursing home or home care agency, or the contract agency of the nursing home or home care agency. If a nursing home, home care agency, or contract agency of a nursing home or home care agency disqualifies an applicant after consideration of the relevant factors, then the nursing home, home care agency, or contract agency may disclose information contained in the criminal history record check that is relevant to the disqualification, but may not provide a copy of the criminal history record check to the applicant.

(c) Limited Immunity. – An entity and an officer or employee of an entity that, in good faith, complies with this section is not liable for the failure of the entity to employ an individual on the basis of information provided in the criminal history record check of the individual.

(d) Relevant Offense. – As used in this section, the term "relevant offense" has the same meaning as in G.S. 131D-40.

(e) Penalty for Furnishing False Information. – Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in G.S. 143B-1209.20.

(2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

(g) Immunity From Liability. – An entity and officers and employees of an entity shall be immune from civil liability for failure to check an employee's history of criminal offenses if the employee's criminal history record check is requested and received in compliance with this section.

(h) For purposes of this section, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency. (1995 (Reg. Sess., 1996), c. 606, s. 3; 1997-125, s. 2; 1997-140, s. 4; 2000-154, ss. 3(a),(b); 2004-124, s. 10.19D(a); 2005-4, ss. 8, 9; 2007-444, s. 3.2; 2014-100, s. 17.1(iii); 2023-134, s. 19F.4(s).)

§ 131E-266. Compliance history provider file.

The Department of Health and Human Services shall establish and maintain a provider file to record and monitor compliance histories of facilities, owners, operators, and affiliates of nursing homes and adult care homes. (1999-334, s. 3.8.)

§ 131E-267. Fees for departmental review of licensed health care facility or Medical Care Commission bond-financed construction projects.

(a) The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis as provided in this section. In no event shall a fee imposed under this section exceed two hundred thousand dollars ($200,000) for any single project. The first seven hundred twelve thousand six hundred twenty-six dollars ($712,626) in fees collected under this section shall remain in the Division of Health Service Regulation. Additional fees collected shall be credited to the General Fund as nontax revenue and are intended to offset rather than replace appropriations made for this purpose.

(b) The fee imposed for the review of a hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee

0	5,000	$1,500 plus $0.25 per square foot
5,000	10,000	$3,000 plus $0.25 per square foot
10,000	20,000	$4,500 plus $0.45 per square foot
20,000	NA	$6,000 plus $0.45 per square foot

(c) The fee imposed for the review of a nursing home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	$250.00 plus $0.15 per square foot
2,000	NA	$500.00 plus $0.25 per square foot

(d) The fee imposed for the review of an ambulatory surgical facility construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	$200.00 plus $0.15 per square foot
2,000	NA	$400.00 plus $0.25 per square foot

(e) The fee imposed for the review of a psychiatric hospital construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	5,000	$750.00 plus $0.25 per square foot
5,000	10,000	$1,500.00 plus $0.25 per square foot
10,000	20,000	$2,250.00 plus $0.45 per square foot
20,000	NA	$3,000.00 plus $0.45 per square foot

(f) The fee imposed for the review of an adult care home construction project varies depending upon the square footage of the project:

Over	Up To	Project Fee
0	2,000	$175.00 plus $0.10 per square foot
2,000	NA	$350.00 plus $0.20 per square foot

(g) The fee imposed for the review of the following residential construction projects is:

Residential Project	Project Fee
Family Care Homes	$225.00 flat fee
ICF/IID Group Homes	$350.00 flat fee
Group Homes: 1-3 beds	$125.00 flat fee
Group Homes: 4-6 beds	$225.00 flat fee
Group Homes: 7-9 beds	$275.00 flat fee
Adult Day Care	
Overnight Respite Facility	$225.00 flat fee
Adult Day Health	
Overnight Respite Facility	$225.00 flat fee
Other residential:	
More than 9 beds	$275.00 plus $0.15 per square foot of project space.

(2003-284, s. 34.11(a); 2005-276, s. 41.2(j); 2006-66, s. 10.22; 2007-323, s. 30.5(a); 2008-107, s. 29.5(a); 2015-241, s. 12G.3(c); 2021-88, s. 9(i).)

§ 131E-268. Reserved for future codification purposes.

§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 90-21.81C, a nonrefundable annual certification fee in the amount of seven hundred dollars ($700.00). (2003-284, s. 34.7(a); 2005-276, s. 41.2(g); 2023-65, s. 14.1(i).)

§ 131E-270. Medication Aide Registry.

(a) The Department shall establish and maintain a Medication Aide Registry containing the names of all health care personnel in North Carolina who have successfully completed a medication aide training program that has been approved by the North Carolina Board of Nursing, passed a State-administered medication aide competency exam, and met any other requirements set by the Medical Care Commission.

(b) Before allowing an individual to serve as a medication aide, an employer shall access the Medication Aide Registry to verify that the individual is listed on the Registry and shall note each incidence of access in the appropriate business file. Employers may not use an individual as a medication aide unless the individual is listed on the Medication Aide Registry.

(c) Employers shall access the Health Care Personnel Registry prior to employing a medication aide. Any substantiated action as defined in G.S. 131E-256(a)(1) listed against the medication aide shall disqualify the medication aide from employment in any facility or agency covered by Part 1 of Article 6 of this Chapter. (2005-276, s. 10.40C(c); 2007-444, s. 4(b).)

§ 131E-271: Reserved for future codification purposes.

§ 131E-272. Initial licensure fees for new facilities.

The following fees are initial licensure fees for new facilities and are applicable as follows:

Facility Type	Number of Beds	Initial License Fee	Initial Bed Fee
Adult Care Licensure	More than 6	$400.00	$19.00
	6 or Fewer	$350.00	$ -
Acute and Home Care			
General Acute Hospitals	1-49	$550.00	$19.00
	50-99	$750.00	$19.00
	100-199	$950.00	$19.00
	200-399	$1150.00	$19.00
	400-699	$1550.00	$19.00
	700+	$1950.00	$19.00
Other Hospitals		$1050.00	$19.00
Home Care	-	$510.00	$ -
Home Assistance Services	-	$510.00	$ -
Ambulatory Surgical Ctrs.	-	$900.00	$85.00
Hospice (Free Standing)	-	$450.00	$ -
Abortion Clinics	-	$850.00	$ -
Cardiac Rehab. Centers	-	$425.00	$ -
Nursing Home & L&C			
Nursing Homes		$470.00	$19.00

All Others		$ -	$19.00
Mental Health Facilities			
Nonresidential		$265.00	$ -
Non ICF/IID	6 or fewer	$350.00	$ -
ICF/IID only	6 or fewer	$900.00	$ -
Non ICF/IID	More than 6	$525.00	$19.00
ICF/IID only	More than 6	$850.00	$19.00. (2009-451, s. 10.77; 2021-88, s. 9(j); 2023-14, s. 2.3; 2023-150, s. 1(b).)

§ 131E-273. Certain charges/payments prohibited.

It shall be unlawful for any provider of health care services to charge or accept payment for any health care procedure or component of any health care procedure that was not performed or supplied. If a procedure requires the informed consent of a patient, the charge for any component of the procedure performed prior to consent being given shall not exceed the actual cost to the provider if the patient elects not to consent to the procedure. (2013-382, s. 11.1; 2013-393, s. 1.)

§ 131E-274: Reserved for future codification purposes.