§ 131E-138. Licensure requirements.

(a) No person or governmental unit shall operate a home care agency or a home assistance services provider without a license obtained from the Department. Nothing in this Part shall be construed to extend or modify the licensing of individual health professionals by the licensing boards for their professions or to create any new professional license category.

(b) Repealed by Session Laws 1991, c. 59, s. 1.

(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of five hundred ten dollars ($510.00).

(d) The Department shall renew the license in accordance with the rules of the Commission.

(e) Each license shall be issued only for the premises and persons named in the license and shall not be transferable or assignable except with the written approval of the Department.

(f) The license shall be posted in a conspicuous place on the licensed premises.

(g) The Commission shall adopt rules to ensure that a home care agency shall be deemed to meet the licensure requirements and issued a license without further review or inspection if: (i) the agency is already certified or accredited by the Joint Commission on Accreditation of Health Care Organizations, National League for Nursing, National Home Caring Council, North Carolina Accreditation Commission for In-Home Aide Services, or other entities recognized by the Commission and (ii) the agency is certified or accredited for all of the home care services that it provides; or (iii) in the case of continuing care retirement communities licensed by the North Carolina Department of Insurance under Article 64 of Chapter 58 which also have nursing beds licensed by the Department of Health and Human Services under Article 6 of Chapter 131E, the Department certifies, as part of its licensure review or survey of the nursing beds, that the facility also meets all of the rules and regulations adopted by the Commission pursuant to this Part. The Department may, at its discretion, determine the frequency and extent of the review and inspection of home health agencies already certified as meeting federal requirements, but not more frequently than on an annual basis for routine reviews.

(h) Home assistance services providers shall do the following:

(1) Maintain liability insurance.

(2) Inform all new clients that they do not provide health care or hands-on care.

(3) Conduct a criminal background check in each state where any contractor or employee was a resident during the past seven years.

(4) Document that each employee or contractor possesses a valid drivers license, vehicle registration, proof of insurance, and has provided an official driving record from the North Carolina Division of Motor Vehicles.

(5) Require that all services provided by employees or contractors are provided in a safe and appropriate manner that complies with all relevant laws.

(6) Annually attest that they are in compliance with subdivisions (1) through (5) of this subsection.

(i) Home assistance services providers shall not do any of the following:

(1) Submit claims for reimbursement to a private or government-funded health insurer, managed care organization, or health plan for services rendered to or on behalf of a North Carolina resident.

(2) Employ or contract with an individual who was convicted of a relevant offense as defined in G.S. 131D-40(d).

(3) Employ or contract with an individual listed on the National Sex Offender Public Website. (1971, c. 539, s. 1; 1973, c. 476, s. 128; 1983, c. 775, s. 1; 1991, c. 59, s. 1; c. 761, s. 34; 1997-443, s. 11A.118(a); 2003-284, s. 34.4(a); 2005-276, s. 41.2(d); 2008-127, s. 2; 2009-451, s. 10.76(d); 2023-150, s. 1(a).)