Article 15.
Health Care Personnel Registry.

§ 131E-255. Nurse Aide Registry; waiver of rules during an emergency.

(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 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.

(f) Notwithstanding the provisions of this section or any other provision of law, a nursing facility may employ or contract with health care personnel who are not listed on the Nurse Aide Registry to perform the duties of a nurse aide for a period of up to four months, consistent with subsection (d) of 42 C.F.R. § 483.35. As used in this subsection, "health care personnel" means unlicensed staff that have direct access to residents, clients, or their property. Direct access includes any unlicensed staff that, during the course of employment, have the opportunity for direct contact with an individual or an individual's property when that individual is a resident, client, or person to whom the nursing facility provides services.

(g) In the event of a declaration of a state of emergency by the Governor in accordance with Article 1A of Chapter 166A of the General Statutes, a declaration of a national emergency by the President of the United States, a declaration of a public health emergency by the Secretary of the United States Department of Health and Human Services; or to the extent necessary to allow for consistency with any temporary waiver or modification issued by the Secretary of the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services under section 1135 or 1812(f) of the Social Security Act; or when the Division of Health Service Regulation determines the existence of an emergency that poses a risk to the health or safety of patients or residents of a nursing facility, the Division of Health Service Regulation may temporarily waive any rules of the Commission pertaining to the nurse aide registry. (1991, c. 185, s. 1; c. 761, s. 26; 1995 (Reg. Sess., 1996), c. 713, ss. 3(a), (b); 2022-74, ss. 9E.1(a), 9E.2(h).)