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SENATE DRS15169-LUF-107 (03/14)

Short Title: Amend Nursing Home Administrator Act/Fees.

(Public)

Sponsors: Senator Tucker (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NURSING HOME ADMINISTRATOR ACT AND TO
3 INCREASE CERTAIN FEES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 90-278(1) reads as rewritten:

6 "§ 90-278. Qualifications for licensure.

7 The Board shall have authority to issue licenses to qualified persons as nursing home
8 administrators, and shall establish qualification criteria for such nursing home administrators.

9 (1) A license as a nursing home administrator shall be issued to any person upon
10 the Board's determination that:

- 11 a. He is at least 18 years of age, of good moral character and of sound
12 physical and mental health; and
- 13 b. He has ~~successfully completed the equivalent of two years of college~~
14 ~~level study (60 semester hours or 96 quarter hours) from an~~
15 ~~accredited community college, college or university prior to~~
16 ~~application for licensure;~~
17 ~~or~~
18 ~~has completed a combination of education and experience,~~
19 ~~acceptable under rules promulgated by the Board, prior to application~~
20 ~~for licensure. Under this provision, two years of supervisory~~
21 ~~experience in a nursing home shall be equated to one year of college~~
22 ~~study; and~~ been awarded a minimum of a baccalaureate degree from a
23 college or university accredited by an agency recognized by the
24 United States Department of Education, or an associate's degree in
25 nursing with a minimum of five years of experience as a director of
26 nursing for five of the previous six years prior to application for
27 licensure.
- 28 c. He has satisfactorily completed a course prescribed by the Board,
29 which course contains instruction on the services provided by
30 nursing homes, laws governing nursing homes, protection of patient
31 interests and nursing home administration; and
- 32 d. He has successfully completed his training period as an
33 administrator-in-training as prescribed by the Board. If a person has
34 served at least 12 weeks as a hospital administrator or assistant
35 administrator of a hospital-based long-term care nursing unit or
36 hospital-based swing beds licensed under Article 5 of Chapter 131E



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1 or Article 2 of Chapter 122C, the Board shall consider this
 2 experience comparable to the initial on-the-job portion of the
 3 administrator-in-training program only; and

- 4 e. He has passed ~~examinations administered by the Board and designed~~
 5 ~~to test for competence in the subject matters referred to in paragraph~~
 6 ~~e of this subdivision, the national and State examinations designed to~~
 7 ~~test for competence in the subject matters referred to in~~
 8 ~~sub-subdivision c. of this subdivision within one year from the date~~
 9 ~~of completion of the administrator-in-training program.~~

10"

11 **SECTION 2.** G.S. 90-280 reads as rewritten:

12 **"§ 90-280. Fees; display of license; duplicate license; inactive list.**

13 (a) Each applicant for an examination administered by the Board and each applicant for
 14 an administrator-in-training program and reciprocity endorsement shall pay a processing fee set
 15 by the Board not to exceed ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00) plus
 16 the actual cost of the exam.

17 (b) Each person licensed as a nursing home administrator shall be required to pay a
 18 license fee in an amount set by the Board not to exceed ~~five hundred dollars (\$500.00)~~ one
 19 thousand dollars (\$1,000). A license shall expire on the thirtieth day of September of the
 20 second year following its issuance and shall be renewable biennially upon payment of a
 21 renewal fee set by the Board not to exceed ~~five hundred dollars (\$500.00)~~ one thousand dollars
 22 (\$1,000).

23 (c) Each person licensed as a nursing home administrator shall display his license
 24 certificate, along with the current certificate of renewal, in a conspicuous place in his place of
 25 employment.

26 (d) Any person licensed as a nursing home administrator may receive a duplicate
 27 license or verification of license by payment of a fee set by the Board not to exceed ~~twenty-five~~
 28 ~~dollars (\$25.00)~~ one hundred dollars (\$100.00).

29 (e) Any person licensed as a nursing home administrator who is not acting, serving, or
 30 holding himself out to be a nursing home administrator may have his name placed on an
 31 inactive list for such period of time not to exceed four years upon payment of a fee set by the
 32 Board not to exceed ~~fifty dollars (\$50.00)~~ two hundred dollars (\$200.00) per year. Each year
 33 during that four-year period, upon request and payment of the fee, the person's name may
 34 remain on an inactive list for one additional year.

35 (f) Any person having a temporary license issued pursuant to G.S. 90-278(3) shall pay
 36 a fee in an amount set by the Board not to exceed ~~two hundred dollars (\$200.00)~~ five hundred
 37 dollars (\$500.00). If the Board renews the temporary license, no further fee shall be required.

38 (g) The Board may set fees not to exceed ~~two hundred and fifty dollars (\$250.00)~~ one
 39 thousand dollars (\$1,000) for conducting and administering initial training and continuing
 40 education courses, and may set a fee not to exceed one hundred dollars (\$100.00) per hour for
 41 certifying a course submitted for review by another individual or agency wishing to offer such
 42 courses or may set an annual fee not to exceed ~~two thousand dollars (\$2,000)~~ four thousand
 43 dollars (\$4,000) for certifying a course provider in lieu of certifying each course offered by the
 44 provider."

45 **SECTION 3.** G.S. 90-283 reads as rewritten:

46 **"§ 90-283. Organization of Board; compensation; employees and services.**

47 The Board shall elect from its membership a chairman, vice-chairman and secretary, and
 48 shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to
 49 receive only such compensation and reimbursement as is prescribed by Chapter 93B of the
 50 General Statutes for State boards generally. At any meeting a majority of the voting members
 51 shall constitute a quorum. The Board ~~may employ any necessary personnel to assist it in the~~

1 performance of its duties and may contract for such services as may be ~~shall~~ have the power to
2 employ or retain professional personnel, including legal counsel subject to G.S. 114-2.3, and
3 clerical or other special personnel deemed necessary to carry out the provisions of this Article."

4 **SECTION 4.** G.S. 90-285(3) reads as rewritten:

5 **"§ 90-285. Functions and duties of the Board.**

6 The Board shall meet at least once annually in Raleigh or any other location designated by
7 the chairman and shall have the following functions and duties:

8 ...

- 9 (3) Issue licenses to qualified ~~individuals~~individuals consistent with
10 G.S. 90-278 and G.S. 90-287 and any rules adopted by the Board
11 implementing those provisions.

12"

13 **SECTION 5.** G.S. 90-285.1 reads as rewritten:

14 **"§ 90-285.1. Suspension, revocation or refusal to issue a license.**

15 The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise
16 discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon
17 substantial evidence that a licensee:

- 18 (1) Has violated the provisions of this Article or the rules adopted by the Board;
19 (2) Has violated the provisions of Part 2 of Article 6 of Chapter 131E of the
20 General Statutes and rules promulgated thereunder;
21 (3) Has been convicted of, or has tendered and has had accepted a plea of no
22 contest to, a criminal offense showing professional unfitness;
23 (4) Has practiced fraud, deceit, or misrepresentation in securing or procuring a
24 nursing home administrator license;
25 (5) Is incompetent to engage in the practice of nursing home administration or to
26 act as a nursing home administrator;
27 (6) Has practiced fraud, deceit, or misrepresentation in his capacity as a nursing
28 home administrator;
29 (7) Has committed acts of misconduct in the operation of a nursing home under
30 his jurisdiction;
31 ~~(8) Is a habitual drunkard;~~
32 (9) Is addicted or dependent upon the use of any controlled substance, including,
33 but not limited to, morphine, opium, cocaine, alcohol, or other drugs
34 recognized as resulting in abnormal behavior;
35 (10) Has practiced without being registered biennially;
36 (11) Has transferred or surrendered possession of, either temporarily or
37 permanently, his license or certificate to any other person;
38 (12) Has paid, given, has caused to be paid or given or offered to pay or to give to
39 any person a commission or other valuable consideration for the solicitation
40 or procurement, either directly or indirectly, of nursing home patronage;
41 (13) Has been guilty of fraudulent, misleading, or deceptive advertising;
42 (14) Has falsely impersonated another licensee;
43 (15) Has failed to exercise regard for the safety, health or life of the patient;
44 (16) Has permitted unauthorized disclosure of information relating to a patient or
45 his records; or
46 (17) Has discriminated among patients, employees, or staff on account of race,
47 sex, gender, religion, color, ~~or national origin~~national origin, mental or
48 physical disability, or any other class protected by State or federal law."

49 **SECTION 6.** G.S. 90-287 reads as rewritten:

50 **"§ 90-287. Reciprocity with other states.**

1 The Board may issue a nursing home administrator's ~~license, without examination, license~~
2 to any person who holds a current license as a nursing home administrator from another
3 jurisdiction, provided that the Board finds that the standards for licensure in such other
4 jurisdiction are at least the substantial equivalent of those prevailing in this ~~State, State~~ and that
5 the applicant has passed the national and the State examinations administered by the Board and
6 is otherwise qualified."

7 **SECTION 7.** G.S. 90-288.01 reads as rewritten:

8 **"§ 90-288.01. Criminal history record checks of applicants for licensure.**

9 (a) The following definitions apply in this section:

10 (1) Applicant. — A person applying for initial licensure pursuant to either
11 G.S. 90-278 or G.S. 90-287 or applying for renewal of licensure pursuant to
12 G.S. 90-286.

13 (2) Criminal history. — A history of conviction of a state or federal crime,
14 whether a misdemeanor or felony, that bears on an applicant's fitness for
15 licensure as a nursing home administrator. The crimes include the criminal
16 offenses set forth in any of the following Articles of Chapter 14 of the
17 General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes;
18 Article 5A, Endangering ~~Executive and Legislative~~ Executive, Legislative,
19 and Court Officers; Article 6, Homicide; Article 7A, Rape and Other Sex
20 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
21 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
22 or Material; Article 14, Burglary and Other Housebreakings; Article 15,
23 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article
24 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A,
25 Obtaining Property or Services by False or Fraudulent Use of Credit Device
26 or Other Means; Article 19B, Financial Transaction Card Crime Act; Article
27 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public
28 Morality and Decency; Article 26A, Adult Establishments; Article 27,
29 Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct
30 in Public Office; Article 35, Offenses Against the Public Peace; Article 36A,
31 Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors;
32 Article 40, Protection of the Family; Article 59, Public Intoxication; and
33 Article 60, Computer-Related Crime. The crimes also include possession or
34 sale of drugs in violation of the North Carolina Controlled Substances Act,
35 Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses,
36 including sale to underage persons in violation of G.S. 18B-302 or driving
37 while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

38 (b) Criminal History Record Check. — The Board shall require a criminal history
39 record check of all ~~applicants~~ applicants for initial licensure and temporary licensure. The
40 Board, in its discretion, may require a criminal history record check of an applicant for license
41 renewal. Refusal to consent to a criminal history record check may constitute grounds for the
42 Board to deny licensure to an applicant. The Board shall provide to the North Carolina
43 Department of Justice the fingerprints of the applicant to be checked, a form signed by the
44 applicant consenting to the criminal history record check and the use of fingerprints and other
45 identifying information required by the State or National Repositories, and any additional
46 information required by the Department of Justice. The Board shall keep all information
47 obtained pursuant to this section confidential. The Board shall collect any fees required by the
48 Department of Justice and shall remit the fees to the Department of Justice for expenses
49 associated with conducting the criminal history record check.

50 (c) Convictions. — If the applicant's criminal history record check reveals one or more
51 convictions listed under subdivision (2) of subsection (a) of this section, the conviction shall

1 not automatically bar licensure. The Board shall consider all of the following factors regarding
2 the conviction:

- 3 (1) The level of seriousness of the crime.
- 4 (2) The date of the crime.
- 5 (3) The age of the applicant at the time of the conviction.
- 6 (4) The circumstances surrounding the commission of the crime, if known.
- 7 (5) The nexus between the criminal conduct of the applicant and the job duties
8 of the position to be filled.
- 9 (6) The applicant's prison, jail, probation, parole, rehabilitation, and
10 employment records since the date the crime was committed.
- 11 (7) The subsequent commission by the applicant of a crime listed in subsection
12 (a) of this section.

13 (d) Denial of Licensure. — ~~If Except as otherwise provided by law, if~~ the Board refuses
14 to issue or renew a license based on information obtained in a criminal history record check,
15 ~~the Board must disclose to the applicant the information contained in the criminal history~~
16 ~~record check that is relevant to the Board's actions.~~ The Board shall not provide a copy of the
17 criminal history record check to the applicant. An applicant has the right to appear before the
18 Board to appeal the Board's decision. An appearance before the Board shall constitute an
19 exhaustion of administrative remedies in accordance with Chapter 150B of the General
20 Statutes.

21 (e) Limited Immunity. — The Board, its officers and employees, acting in good faith
22 and in compliance with this section, shall be immune from civil liability for its actions based on
23 information provided in an applicant's criminal history record check."

24 **SECTION 8.** Article 20 of Chapter 90 of the General Statutes is amended by
25 adding the following new section to read:

26 "**§ 90-288.02. Confidentiality of investigative records.**

27 Records, papers, and other documents containing information collected and compiled by or
28 on behalf of the Board as a result of an investigation, inquiry, or interview conducted in
29 connection with certification, licensure, or a disciplinary matter shall not be considered public
30 records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of
31 charges, notice of hearing, or decision rendered in connection with a hearing shall be a public
32 record. Information that identifies a resident who has not consented to the public disclosure of
33 services rendered to him or her by a person certified or licensed under this Chapter shall be
34 deleted from the public record. All other records, papers, and documents containing
35 information collected and compiled by or on behalf of the Board shall be public records, but
36 any information that identifies a resident who has not consented to the public disclosure of
37 services rendered to him or her shall be deleted."

38 **SECTION 9.** This act is effective when it becomes law.