

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1239

Short Title: Long-Term Care Facilities/Drug Testing. (Public)

Sponsors: Representatives Sager, Cleveland, Stevens, Randleman (Primary Sponsors);  
Avila, Boles, Brown, Burris-Floyd, Current, Dollar, Gulley, Hurley, Justice,  
Lewis, Moore, Stam, Wainwright, and Wray.

Referred to: Health, if favorable, Judiciary III.

April 9, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE LONG-TERM CARE FACILITIES TO REQUIRE APPLICANTS  
3 FOR EMPLOYMENT AND CERTAIN EMPLOYEES TO SUBMIT TO DRUG  
4 TESTING FOR CONTROLLED SUBSTANCES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 5 of Chapter 131D of the General Statutes is amended by  
7 adding the following new section to read:

8 "**§ 131D-45. Testing for the presence of controlled substances required for applicants for**  
9 **employment in adult care homes.**

10 (a) An offer of employment by an adult care home licensed under this Chapter to an  
11 applicant is conditioned on the applicant's consent to an examination and screening for  
12 controlled substances. The examination and screening shall be conducted in accordance with  
13 Article 20 of Chapter 95 of the General Statutes. If the results of the applicant's examination  
14 and screening indicate the presence of a controlled substance, the adult care home shall not  
15 employ the applicant unless and until the applicant provides to the adult care home written  
16 verification from the applicant's prescribing physician that every controlled substance identified  
17 by the examination and screening is prescribed by that physician to treat the applicant's medical  
18 or psychological condition. The verification from the physician shall include the name of the  
19 controlled substance, the prescribed dosage and frequency, and the condition for which the  
20 substance is prescribed. If the results of an applicant's or employee's examination and screening  
21 indicates the presence of a controlled substance, the adult care home may require a second  
22 examination and screening to verify the results of the prior examination and screening.

23 (b) An adult care home may require random testing for controlled substances as a  
24 condition of continued employment. If the adult care home has reasonable grounds to believe  
25 that an employee is an abuser of a controlled substance, the adult care home may require that  
26 employee to undergo examination and screening for controlled substances as a condition of  
27 continued employment.

28 (c) An adult care home and an officer or employee of an adult care home that, in good  
29 faith, complies with this section is not liable for the failure of the adult care home to employ or  
30 continue the employment of an individual on the basis of the results of an examination and  
31 screening of the applicant or employee for controlled substances.

32 (d) An entity and officers and employees of an entity that performs controlled substance  
33 testing in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune  
34 from civil liability for conducting or failing to conduct the examination and screening if the



1 examination and screening are requested and received in compliance with this section and with  
2 Article 20 of Chapter 95 of the General Statutes.

3 (e) The results of an examination and screening conducted at the request of an adult  
4 care home in accordance with this section are confidential and not a public record and the adult  
5 care home shall maintain the confidentiality of all information related to the examination and  
6 screening of an applicant for employment or an individual currently employed by the adult care  
7 home."

8 **SECTION 2.** Part 1 of Article 6 of Chapter 131E of the General Statutes is  
9 amended by adding the following new section to read:

10 **"§ 131E-114.4. Testing for the presence of controlled substances required for applicants**  
11 **for employment in nursing homes.**

12 (a) An offer of employment by a nursing home licensed under this Chapter to an  
13 applicant is conditioned on the applicant's consent to an examination and screening for  
14 controlled substances. The examination and screening shall be conducted in accordance with  
15 Article 20 of Chapter 95 of the General Statutes. If the results of the applicant's examination  
16 and screening indicate the presence of a controlled substance, the nursing home shall not  
17 employ the applicant unless and until the applicant provides to the nursing home written  
18 verification from the applicant's prescribing physician that every controlled substance identified  
19 by the examination and screening is prescribed by that physician to treat the applicant's medical  
20 or psychological condition. The verification from the physician shall include the name of the  
21 controlled substance, the prescribed dosage and frequency, and the condition for which the  
22 substance is prescribed. If the results of an applicant's or employee's examination and screening  
23 indicate the presence of a controlled substance, the nursing home may require a second  
24 examination and screening to verify the results of the prior examination and screening.

25 (b) A nursing home may require random testing for controlled substances as a condition  
26 of continued employment. If the nursing home has reasonable grounds to believe that an  
27 employee is an abuser of a controlled substance, the nursing home may require that employee  
28 to undergo examination and screening for controlled substances as a condition of continued  
29 employment.

30 (c) A nursing home and an officer or employee of a nursing home that, in good faith,  
31 complies with this section is not liable for the failure of the nursing home to employ or  
32 continue the employment of an individual on the basis of the results of an examination and  
33 screening of the applicant or employee for controlled substances.

34 (d) An entity and officers and employees of an entity that performs controlled substance  
35 testing in accordance with Article 20 of Chapter 95 of the General Statutes shall be immune  
36 from civil liability for conducting or failing to conduct the examination and screening if the  
37 examination and screening are requested and received in compliance with this section and with  
38 Article 20 of Chapter 95 of the General Statutes.

39 (e) The results of an examination and screening conducted at the request of a nursing  
40 home in accordance with this section are confidential and not a public record, and the nursing  
41 home shall maintain the confidentiality of all information related to the examination and  
42 screening of an applicant for employment or an individual currently employed by the adult care  
43 home."

44 **SECTION 3.** This act becomes effective October 1, 2009.