

CHAPTER 85
HB 1659-FN - FINAL VERSION

16Feb2022... 0532h

2022 SESSION

22-2630
11/05

HOUSE BILL ***1659-FN***

AN ACT relative to criminal history background checks for certain health care workers.

SPONSORS: Rep. Abrami, Rock. 19; Rep. McMahon, Rock. 7; Rep. Grote, Rock. 24; Rep. Schapiro, Ches. 16; Sen. Reagan, Dist 17; Sen. Ricciardi, Dist 9; Sen. Cavanaugh, Dist 16; Sen. Bradley, Dist 3

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes the provision for temporary employment in a residential care facility or as a licensed nursing assistant by persons awaiting the results of a criminal history background check.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to criminal history background checks for certain health care workers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 85:1 Residential Care and Health Facility Licensing; Employment. Amend RSA 151:2-d to read as
2 follows:

3 151:2-d Criminal Record Check Required.

4 I. Every applicant for a license or certification to operate any facility or entity required to be
5 licensed or certified under this chapter shall submit with the initial application for licensure or certification
6 the results of a criminal records check [~~from the department of safety~~] for the applicant, the licensee, or
7 certificate holder if other than the applicant, the administrator, and each household member 17 years of
8 age or older, if any, who reside at the facility for which the application for a license is submitted at the time
9 of application and, subsequently for the duration of licensure or certification, for each new household
10 member 17 years of age or older.

11 II. [~~For the duration of licensure or certification~~] Every individual selected for employment with
12 any facility or entity required to be licensed or certified under this chapter shall submit to the employer a
13 public criminal history record information authorization, [~~form, as provided by the division of state police,~~
14 ~~which authorizes the release of his or her public criminal history record information to the facility pursuant~~
15 ~~to RSA 106-B:14.] **which authorizes the release of his or her public criminal history record information to**
16 **the facility.** This shall apply to any employee, including volunteers, whose scope of employment will
17 involve direct contact with a client, client records or client tissue, body fluids, or other biological material.
18 For the purposes of this paragraph, "volunteers" shall not include any person admitted to a facility or entity
19 required to be licensed or certified under this chapter or who resides in an affiliated corporate entity that is
20 an integral part of the same community.~~

21 III. [~~The licensee or certificate holder shall submit the public criminal history record information~~
22 ~~authorization form to the division of state police after an applicant accepts a conditional offer of~~
23 ~~employment.] The licensee or certificate holder shall review the results of the public criminal history
24 record information check before making a final offer of employment. An employee shall not begin work
25 before the final offer of employment is made, **however, pending the results of the criminal history record**
26 **check an employer may employ a licensed nursing assistant on a conditional basis for up to 90 calendar**
27 **days before the employer receives the results of the criminal history records check, if the conditional**
28 **employee:**~~

29 (a) **Is under the direct on-site supervision of a licensed staff person, provided that this**
30 **paragraph shall not be construed to waive any statutory requirement for direct supervision of a licensee or**
31 **certificate holder;**

1 **(b) Has passed a criminal history record check within the prior 12 months as part of a nursing**
2 **assistant education program approved by the board of nursing;**

3 **(c) Has provided the facility with a copy of the criminal history record check required under**
4 **subparagraph (b); and**

5 **(d) Has provided a written attestation that no disqualifying criminal history exists.**

6 IV. ~~[(a) Upon receipt of a public criminal history record information authorization form from a~~
7 ~~facility or entity licensed under this chapter, the division of state police shall conduct a public criminal~~
8 ~~history record information check pursuant to RSA 106-B:14 and provide the results to the licensee or~~
9 ~~certificate holder.~~

10 ~~(b)]~~ The cost of criminal conviction record checks for such applicants shall be borne by the
11 licensee or certificate holder, provided that the licensee or certificate holder may require an applicant to
12 pay the actual cost of the criminal conviction record check.

13 V.(a) Any agency providing temporary or per diem staff to a facility or entity licensed or certified
14 under this chapter shall conduct a criminal conviction record check pursuant to this section. The agency
15 shall not offer the services of any person until the agency has reviewed the criminal history of the
16 employee.

17 (b) The cost of criminal history record checks for such temporary or per diem staff shall be
18 borne by the agency providing temporary or per diem staff to a home health care provider, provided that
19 the agency providing per diem staffing may require the selected applicant for employment to pay the
20 actual costs of the criminal conviction record check.

21 ~~[VI. The provisions of this section shall not apply to any person who is licensed by the board of~~
22 ~~nursing pursuant to RSA 326-B and has already undergone a criminal background check.]~~

23 85:2 Nurse Practice Act; Temporary Licenses. Amend RSA 326-B:24 to read as follows:

24 326-B:24 Temporary Licenses; All Licensees.

25 I. The board ~~[may]~~ **shall** issue temporary licenses~~[, as provided in paragraph II,]~~ **pursuant to this**
26 **section** to applicants who meet entry level licensing requirements in the license category. A temporary
27 license shall expire on the date the board approves or denies the permanent license sought by the holder
28 of the temporary license, or in 180 days, whichever is less.

29 II. The following applicants for licensure as RNs or LPNs ~~[may]~~ **shall** be issued temporary
30 licenses:

31 (a) Unlicensed applicants for licensure under paragraph I and applicants for licensure under
32 RSA 326-B who have met all requirements for licensure except that they have not yet taken the required
33 examination or the results of the examination are not yet available to the board.

34 (b) If they can demonstrate proficiency in English, currently foreign-licensed applicants for
35 licensure under RSA 326-B who have met all requirements for licensure except that they have not yet
36 taken the required examination or the results of the examination are not yet available to the board.

37 (c) Applicants for licensure under RSA 326-B who have met all of the requirements of that
38 paragraph and are awaiting the board's decision on their application for permanent licensure.

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1 III. *Applicants for licenses as licensed nursing assistants shall be issued temporary licenses if*
2 *they have passed the examination required pursuant to RSA 326-B:19 and are awaiting the results of the*
3 *criminal history record check required pursuant to RSA 326-B:15, provided, however, that the applicant*
4 *within the prior 12 months shall have passed a criminal history record check as part of a nursing assistant*
5 *education program approved by the board.*

6 IV. Applicants described in paragraph II *and III* who have received temporary licenses shall
7 practice only under the supervision of an RN currently licensed in New Hampshire.

8 85:3 Effective Date. This act shall take effect upon its passage.

Approved: May 20, 2022
Effective Date: May 20, 2022

