

CONSENT CALENDAR

February 7, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Health, Human Services and Elderly
Affairs to which was referred HB 1659-FN,**

**AN ACT relative to criminal history background checks
for certain health care workers. Having considered the
same, report the same with the following amendment,
and the recommendation that the bill OUGHT TO PASS
WITH AMENDMENT.**

Rep. Charles McMahon

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 1659-FN
Title:	relative to criminal history background checks for certain health care workers.
Date:	February 7, 2022
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2022-0532h

STATEMENT OF INTENT

Currently, criminal background checks for employment in licensed health care facilities, including residential care facilities, are currently done exclusively through the NH Department of Safety. This bill will allow these facilities to use, in addition, third-party criminal background check services to expedite the response in providing the background check which is required as a condition of employment. It also allows a licensed nursing assistant to begin working on a conditional basis under the direct on-site supervision of a licensed staff person provided that he or she has passed a background check in the past 12 months as part of the education program and attest that no disqualifying criminal history exists. This bill is needed to allow the filling of vacant positions in health care facilities in a more timely fashion and to ensure that the delivery of quality services in the licensed health care and residential care facilities is sustained.

Vote 19-1.

Rep. Charles McMahon
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

HB 1659-FN, relative to criminal history background checks for certain health care workers.
OUGHT TO PASS WITH AMENDMENT.

Rep. Charles McMahon for Health, Human Services and Elderly Affairs. Currently, criminal background checks for employment in licensed health care facilities, including residential care facilities, are currently done exclusively through the NH Department of Safety. This bill will allow these facilities to use, in addition, third-party criminal background check services to expedite the response in providing the background check which is required as a condition of employment. It also allows a licensed nursing assistant to begin working on a conditional basis under the direct on-site supervision of a licensed staff person provided that he or she has passed a background check in the past 12 months as part of the education program and attest that no disqualifying criminal history exists. This bill is needed to allow the filling of vacant positions in health care facilities in a more timely fashion and to ensure that the delivery of quality services in the licensed health care and residential care facilities is sustained. **Vote 19-1.**

Original: House Clerk

Cc: Committee Bill File

Amendment to HB 1659-FN

1 Amend RSA 151:2-d, II as inserted by section 1 of the bill by replacing it with the following:

2

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

14

15 Amend RSA 151:2-d, III(a) as inserted by section 1 of the bill by replacing it with the following:

16

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

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on Bill # HB1659 FN

BILL TITLE: An Act relative to criminal history background checks for certain health care workers.

DATE: 2/07/2022

LOB ROOM: 210-11

MOTION: (Please check one box)

Adoption of Amendment # 2022-0532h

(

Moved by Rep. Knirk Seconded by Rep. Layon Vote: 19-1

MOTION:

OTP/A

Moved by Rep. McMahan Seconded by Rep. Knirk Vote: 19-1

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion _____

Respectfully submitted: _____ baf
Rep. Beth Folsom, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



9/28/2021 11:15:01 AM
Roll Call Committee Registers
Report

2022 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB1659 FN **Motion:** _____ **AM #:** 2022-0532h **Exec Session Date:** 2/07/2022

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	Y		
Layon, Erica J. Vice Chairman	Y		
McMahon, Charles E.	Y		
Acton, Dennis F.	Y		
Gay, Betty I.	Y		
Cushman, Leah P.	Y		
Folsom, Beth A. Clerk	Y		
Kelsey, Niki	Y		
King, Bill C.	Y		
Gagne, L	Y		
DeLemus, Susan	Y		
Weber, Lucy M.	Y		
MacKay, James R.	Y		absent
Snow, Kendall A.	Y		
Knirk, Jerry L.	Y		
Salloway, Jeffrey C.	Y		
Cannon, Gerri D.	Y		
Nutter-Upham, Frances E.	Y		
Schapiro, Joe	Y		
Woods, Gary L.	Y		
Merchant, Gary		N	
TOTAL VOTE:	19	1	

**STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK**



9/28/2021 11:15:01 AM
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Pearson, Mark A. Chairman	Y		
Layon, Erica J. Vice Chairman	Y		
McMahon, Charles E.	Y		
Acton, Dennis F.	Y		
Gay, Betty I.	Y		
Cushman, Leah P.	Y		
Folsom, Beth A. Clerk	Y		
Kelsey, Niki	Y		
King, Bill C.	Y		
Gagne, L	Y		
DeLemus, Susan	Y		
Weber, Lucy M.	Y		
MacKay, James R.	Y		absent
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Knirk, Jerry L.	Y		
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HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING on Bill # HB1659-FN

BILL TITLE: An Act relative to criminal history background checks for certain health care workers.

DATE: 01/24/2022

ROOM: LOB 210-11

Time Public Hearing Called to Order: 3:55pm

Time Adjourned: 4:35pm

Committee Members: Reps. M. Pearson, Layon, Folsom, Acton, Cushman, Kelsey, Gay, B. King, Kofalt, MacKay, DeLemus, Weber, Knirk, Salloway, Snow, Cannon, Schapiro, Woods and Merchant,

TESTIMONY

Representative Abrami

Presented the bill.
shortages in staffing
this is just another option for processing background checks

Paula Minnehan, NH Hospital Assoc.

This will not stop background checks but may limit the number of checks required as some 3rd party companies complete both the state and federal checks.
saves time, saves money, offers flexibility
Provisional license
Direct supervision? Visual?
the facility pays for checks
3rd party companies provide the same information as the state police
possible amend Pr1 line 15 not just LNA's for all clinicians
volunteers also have to have these background checks

Victory Muzzy, NH State Police

They have finally caught up from the backlog created when the emergency order was lifted.
facilities that can digital scan fingerprints goes faster, traditional ink prints must have multiple cross check confirmations
will look into 3rd party company's credentials

Respectfully submitted,

Rep. Beth Folsom, Clerk

House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill HB1659 on 2022-01-24

Support: 15 Oppose: 1 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Reagan, Senator John	Deerfield, NH kathryn.cummings@leg.state.nh.us	An Elected Official	Senate District 17	Support	No	No	1/12/2022 10:19 AM
Cavanaugh, Senator Kevin	Manchester, NH kevin.cavanaugh@leg.state.nh.us	An Elected Official	Myself	Support	No	No	1/13/2022 10:01 AM
Ricciardi, Senator Denise	Bedford, NH denise.ricciardi@leg.state.nh.us	An Elected Official	Senate District 19	Support	No	No	1/13/2022 4:50 PM
Bradley, Senator Jeb	SD3, NH jeb.bradley@leg.state.nh.us	An Elected Official	SD3	Support	No	No	1/14/2022 10:58 AM
Anastasia, Patricia	Londonderry, NH patti.anastasia@gmail.com	A Member of the Public	Myself	Support	No	No	1/20/2022 7:15 PM
Mott-Smith, Wiltrud	Loudon, NH wmottsm@worldpath.net	A Member of the Public	Myself	Support	No	No	1/22/2022 3:09 PM
Ropp, Elizabeth	Manchester, NH arunareiki@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2022 2:47 PM
Campbell, Kay	Epsom, NH kkcampbell43@yahoo.com	A Member of the Public	Myself	Support	No	No	1/23/2022 3:31 PM
Froumy, Heather	Exeter, NH hastingsfroumy@gmail.com	A Member of the Public	Myself	Support	No	No	1/23/2022 5:30 PM
Dickinson, Jeff	Concord, NH jdickinson@gsil.org	A Member of the Public	Granite State Independent Living	Support	No	No	1/23/2022 6:24 PM
Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/23/2022 8:21 PM
Lucas, Janet	Campton, NH janluca1953@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 7:31 AM
Hayes, Randy	Canterbury, NH rcompostr@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 9:57 AM

Odom, Judith	Bow, NH judyodom@comcast.net	A Member of the Public	Myself and NH Nurses Associaiton	Support	No	No	1/24/2022 11:37 AM
Thoman, Karen	Nashua, NH kt03062@gmail.com	A Member of the Public	Myself	Support	No	No	1/24/2022 11:39 AM
Berry, Jake	Concord, NH jberry@new-futures.org	A Lobbyist	New Futures	Support	No	No	1/24/2022 12:42 PM

Archived: Friday, January 28, 2022 11:14:17 AM
From: Muzzey, Victor
Sent: Wednesday, January 26, 2022 7:08:50 AM
To: ~House Health Human Services and Elderly Affairs
Cc: trosenberger@bernsteinshur.com
Subject: Follow-up on HB 1659
Importance: Normal

Good Morning Members of the Committee,

With respect to the follow-up requested and the questions asked in regards to the credentialing of third-party background checks, the State Police was able to conduct some brief research and learned the following;

Two different companies were researched:

- PT Research (referenced by the Legislature and based in Manchester, NH) and
- NCSI (a large company endorsed by many youth sports and some of the biggest youth sports organizations).

Sergeant Brian Parker spoke directly with a sales associate at PT Research, she was very helpful and able to answer many of our questions. Sergeant Parker has personally had his background run for the purpose of coaching through NCSI, their website is very informative, and answers most questions. Below you'll see the way they each handle queries, they seem to be extremely similar.

Applicant Identification:

Both applications use identifiers supplied by the applicant. Those identifiers include Last Name, First Name, DOB and SSN#. They will not include any information on previous names if a person is trying to conceal their past and does not disclose that information.

State level background checks:

PT Research will go directly to the repository in each state that's requested. Many states, I don't have a number, don't have a centralized repository. In cases where a state does not have a repository, PT Research attempts to retain a local resource to go to all of the jurisdictions requested/required by the customer. My gut feel on this, there's good potential to miss Criminal History Record Information. I believe from the description on their site, NCSI will take this same approach.

National Level:

PT Research will go to <https://pacer.uscourts.gov/> to find any federal convictions. Our conversation revealed that they're able to tie into NCIC to get a limited amount of information on Wants and Warrants, however, it's not something that they normally do. It's unclear if NCSI will also do the search for the Federal convictions; but they customarily check for Wants and Warrants.

[NCSI Company Website](#)

[PT Research Company Website](#)

My recommendation would be to not allow these for initial credentialing. The main reason for this is the necessity to identify through Fingerprints, secondarily you do not get a full record.

Should you need anything further or have any more follow-up questions, please do not hesitate to reach out.

Respectfully Submitted,

Lieutenant Victor G. Muzzey

Record Information Services

New Hampshire State Police

33 Hazen Drive

Concord, NH 03305

(603) 223-8880-Direct Line

(603) 223-8719-Office

victor.g.muzzey@dos.nh.gov



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HOUSE HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS COMMITTEE

Monday, January 24, 2022

HB 1659-FN –Relative to Criminal History Background Checks for Certain Health Care Workers

Testimony

Good afternoon, Mr. Chairman and members of the committee. My name is Paula Minnehan, Senior Vice President, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA is in strong support on HB 1659-FN, and we want to thank the sponsor, Representative Abrami, as well as the co-sponsors, for agreeing to sponsor this legislation. The bill before you would establish the provision for temporary employment for a licensed nursing assistant in a residential care facility while awaiting criminal history background checks. The bill would also allow for flexibility in obtaining criminal records checks by health care facilities. My testimony today is going to focus on this part of the bill.

Health care providers in the state have been struggling with workforce shortages for years but the last two years have been even more challenging, in part due to the COVID-19 pandemic.

The process to get health care clinicians licensed is time consuming and is further delayed by the Criminal Background Check (CBC) process. The Department of Safety has done a terrific job recently opening a portal for state criminal background checks for anyone, however, healthcare facilities must have national (FBI) as well as state background checks completed for all employees they hire. The Department of Safety portal only does New Hampshire criminal background checks.

This bill would allow for health care facilities to utilize a third-party vendor to complete the federal Criminal Background Check which is a requirement of health facilities licensing under RSA 151:2-d. These third-party vendors can do both federal and state checks in one process. The bill does not preclude a facility from using the NH Department of Safety, it just gives the facilities an option to use whoever they choose and is most expedient. Hospitals have been using third-party vendors for years. The issue to-date is that the law, as written, requires that they obtain the criminal records checks from the Department of Safety which is often duplicative of what they already receive from third party vendors.

This bill does not eliminate the requirement of health facilities to complete the Criminal Background Check process for all employees. It just removes the language in health facilities licensing statute to obtain the Criminal Background Check results from the Department of

Safety. This small change will expedite the ability of these facilities to get health care clinicians on the job helping their patients faster.

NHHA is very supportive of HB 1659-FN, and we urge the committee to vote Ought to Pass. Thank you for the opportunity to provide our comments on HB 1659-FN. I am happy to answer any questions you may have.

HB 1659-FN - AS INTRODUCED

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 struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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 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
6 certification the results of a criminal records check ~~[from the department of safety]~~ for the applicant,
7 the licensee, or certificate holder if other than the applicant, the administrator, and each household
8 member 17 years of age or older, if any, who reside at the facility for which the application for a
9 license is submitted at the time of application and, subsequently for the duration of licensure or
10 certification, for each new household member 17 years of age or older.

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

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

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

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

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

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

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

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

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

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

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

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

25 326-B:24 Temporary Licenses; All Licensees.

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

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

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

35 (b) If they can demonstrate proficiency in English, currently foreign-licensed applicants
36 for licensure under RSA 326-B who have met all requirements for licensure except that they have

1 not yet taken the required examination or the results of the examination are not yet available to the
2 board.

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

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

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

13 3 Effective Date. This act shall take effect upon its passage.

**HB 1659-FN- FISCAL NOTE
 AS INTRODUCED**

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

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

The Department of Safety was contacted for a fiscal note worksheet on 10/29/2021, which they have not provided as of 12/27/2021.

METHODOLOGY:

This bill removes the requirement that residential care or other health facilities licensed under RSA 151 be required to submit the results of licensee and employee criminal records checks performed specifically by the Department of Safety. Criminal records checks would still be required, but statute would no longer require the Department of Safety to be the exclusive entity conducting such checks. In addition, the bill would allow applicants for licenses as licensed nursing assistants to be issued temporary licenses provided they have met certain conditions.

The Department of Health and Human Services states the bill will have no fiscal impact to that Department.

AGENCIES CONTACTED:

Department of Health and Human Services and Department of Safety