

CHAPTER 55
HEALTH CARE EMPLOYMENT AGENCIES

481—55.1(89GA, HF2521) Definitions. The definitions set forth in Iowa Code section 135Q.1 as enacted by 2022 Iowa Acts, House File 2521, are incorporated herein by reference. As used in this chapter, unless the context otherwise requires, the following terms apply:

“Direct services” includes services performed by registered nurses, licensed practical nurses, certified nurse aides, certified medication aides, and medication managers. “Direct services” does not include the practice of medicine and surgery or osteopathic medicine and surgery by an individual licensed under Iowa Code chapter 148 or 148C or the practice of nursing by an advanced registered nurse practitioner or an advanced practice registered nurse licensed under Iowa Code chapter 152 or 152E. For purposes of this chapter, janitorial, housekeeping, laundry, and meal preparation services are not considered direct services.

“Health care employment agency” does not include a recruitment firm that contracts with a health care entity to identify and screen potential candidates for hire and does not provide agency workers for temporary, temporary-to-hire, direct hire, or other contract or employee placements in this state. “Health care employment agency” does not include a group of physical therapists licensed under Iowa Code chapter 148A, occupational therapists licensed under Iowa Code chapter 148B, or speech pathologists or audiologists licensed under Iowa Code chapter 154F providing services to a health care entity.

“Health care entity” includes, but is not limited to, any entities licensed or certified pursuant to Iowa Code chapters 135B (hospitals), 135C (health care facilities), 135G (subacute mental health care facilities), 135H (psychiatric medical institutions for children), 135J (licensed hospice programs), 231C (assisted living programs), and 231D (adult day services) or any ambulatory surgical center, home health agency, hospice, end-stage renal disease center, rural health clinic, or federally qualified health care center certified by the Centers for Medicare and Medicaid Services.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.2(89GA, HF2521) Health care employment agency registration.

55.2(1) A health care employment agency operating in the state shall file a statement of registration and pay a registration fee in accordance with Iowa Code section 135Q.2(1) as enacted by 2022 Iowa Acts, House File 2521. A health care employment agency with multiple locations may complete one registration containing the information required in subrule 55.2(3) for each location and may remit one payment for the total registration fee required.

a. A health care employment agency in operation prior to July 1, 2022, shall register with the department no later than January 4, 2023.

b. A health care employment agency in operation on or after July 1, 2022, shall register with the department 30 days prior to operation.

55.2(2) The statement of registration may be submitted electronically via an Internet-based system provided by the department for such purpose; by mail to the Department of Inspections and Appeals, Health Facilities Division, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by fax to (515)242-5022.

55.2(3) The registrant shall include, at a minimum, the following information on the statement of registration:

- a.* Name(s) of the owner(s) and managing entity(ies);
- b.* Location of the health care employment agency, including street address, city, and ZIP code; and
- c.* Contact information for the owner(s) and managing entity(ies), including telephone number, mailing address, and email address.

55.2(4) The health care employment agency shall notify the department of any changes to the information on the annual statement of registration within 30 days of the date the change occurs, including cessation of operation. Changes shall be submitted in the manner described in subrule 55.2(2).

55.2(5) The department shall issue each location a separate certification of registration upon approval of registration and payment of the fee.
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481—55.3(89GA, HF2521) General requirements. A health care employment agency shall adhere to all requirements under Iowa Code section 135Q.2(2) as enacted by 2022 Iowa Acts, House File 2521, and do all of the following:

55.3(1) Verification of employment standards. A health care employment agency shall ensure that its agency workers comply with all applicable state and federal requirements under Iowa Code sections 135Q.2(2) “a” through “c” as enacted by 2022 Iowa Acts, House File 2521, including but not limited to the following:

a. The health care employment agency shall ensure completion of all requirements regarding criminal, dependent adult abuse, and child abuse record checks that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker directly;

b. The health care employment agency shall ensure completion of the physical examination and screening and testing for tuberculosis procedures that would otherwise be the responsibility of the health care entity if the health care entity employed the agency worker directly; and

c. The health care employment agency shall ensure that an agency worker has completed all education, training, and continuing education requirements for the agency worker’s occupation and that the agency worker is in good standing with any minimum licensing or certification standards to appropriately engage in the workers’ profession.

55.3(2) Allegations of dependent adult abuse.

a. If a health care employment agency receives an allegation of dependent adult abuse against an agency worker, the health care employment agency shall immediately notify the facility in which the alleged abuse occurred so that the facility may immediately separate the victim and alleged dependent adult abuser. The health care employment agency shall also notify the department within 24 hours or the next business day. If the health care employment agency has reason to believe that immediate protection for the dependent adult is advisable, the health care employment agency should also make an oral report to an appropriate law enforcement agency. After receiving notice of an allegation of dependent adult abuse against an agency worker and before the department’s dependent adult abuse investigation is completed and the abuse determination is made, the health care employment agency shall disclose such investigation to any prospective health care entity with which the agency worker will be placed.

b. In addition to any other requirement under state or federal law with respect to the receipt of an allegation of dependent adult abuse, if a health care entity receives an allegation of dependent adult abuse against an agency worker, the health care employment agency shall immediately notify the health care employment agency of the allegation. This does not except the health care entity from any of its duties with respect to alleged dependent adult abuse under state or federal law.

c. If the health care employment agency terminates the alleged dependent adult abuser as a result of the investigation or the alleged dependent adult abuser resigns, the alleged dependent adult abuser shall disclose such termination or investigation to any prospective facility or program employer.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.4(89GA, HF2521) Prohibitions.

55.4(1) A health care employment agency shall not restrict the employment opportunities of an agency worker in accordance with Iowa Code section 135Q.2(3) as enacted by 2022 Iowa Acts, House File 2521.

55.4(2) Subrule 55.4(1) shall not apply to a contract between a health care employment agency and a health care entity or a health care employment agency worker that meets all of the following criteria:

a. The contract is for the purpose of placing an agency worker the health care employment agency assisted in obtaining authorization to work in the United States;

b. The contract contains an initial contract term of no less than 24 months and has a total duration, including any renewals or extensions, of no longer than 36 months; and

c. The contract requires the agency worker to work at a single health care entity for the duration of the contract.

[ARC 671C, IAB 11/30/22, effective 1/4/23]

481—55.5(89GA, HF2521) Record retention and reporting.

55.5(1) Document retention. A health care employment agency shall maintain documentation in its files regarding each agency worker's compliance with the minimum licensing, certification, training, health requirements, and continuing education standards as described in subrule 55.3(1). A health care employment agency shall provide copies of this documentation to a health care entity for a contracted agency worker upon request.

55.5(2) External reporting. A health care employment agency shall report, file, or otherwise provide any required documentation pursuant to Iowa Code section 135Q.2(2) "c" as enacted by 2022 Iowa Acts, House File 2521, including, but not limited to:

a. For any agency workers who are certified nurse aides, the health care employment agency shall report to the direct care worker registry completed work assignments of the agency worker sufficient to maintain an active status on the registry pursuant to requirements set forth in 441—subparagraph 81.16(5) "c"(2), 441—paragraph 81.16(5) "e," and 42 CFR 483.35(d)(6) and 483.156(c)(2).

b. The health care employment agency shall report allegations of dependent adult abuse as set forth in subrule 55.3(3).

55.5(3) Quarterly reporting to the department.

a. The quarterly report required by Iowa Code section 135Q.2(4) as enacted by 2022 Iowa Acts, House File 2521, shall provide the following:

(1) A detailed list of each health care entity participating in Medicare or Medicaid with whom the agency has contracted over the prior quarter;

(2) A detailed list of the average amount charged by the health care employment agency to the health care entity participating in Medicare or Medicaid over the prior quarter, broken down by provider type (e.g., hospital, nursing facility) and each individual agency worker category (e.g., certified nurse aide, registered nurse, licensed practical nurse) within that provider type; and

(3) A detailed list of the average amount paid by the health care employment agency participating in Medicare or Medicaid to agency workers over the prior quarter, broken down by provider type (e.g., hospital, nursing facility) and each individual agency worker category (e.g., certified nurse aide, registered nurse, licensed practical nurse) within that provider type.

b. The report data and submission dates shall be as follows:

(1) The quarterly report containing data from January 1 through March 31 shall be submitted no later than April 15;

(2) The quarterly report containing data from April 1 through June 30 shall be submitted no later than July 15;

(3) The quarterly report containing data from July 1 through September 30 shall be submitted no later than October 15; and

(4) The quarterly report containing data from October 1 through December 31 shall be submitted no later than January 15.

[ARC 671C, IAB 11/30/22, effective 1/4/23]

481—55.6(89GA, HF2521) Complaints.

55.6(1) Complaints.

a. The process for filing a complaint is as follows:

(1) Any person with a concern regarding the operation of a health care employment agency may file a complaint at the department's physical location, complaint hotline, or website, as follows:

Physical address: Department of Inspections and Appeals
 Complaint/Incident Unit
 Lucas State Office Building, Third Floor
 321 E. 12th Street
 Des Moines, Iowa 50319-0083

Complaint hotline: 1-877-686-0027

Website address: dia.iowa.gov

(2) When the nature of the complaint is outside the department's authority, the department shall forward the complaint to the appropriate investigatory entity.

(3) If other state agencies receive a complaint that relates to a health care employment agency, the agencies shall forward the complaint to the department.

b. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the health care employment agency or is without a reasonable basis. If the department, upon preliminary investigation, determines that the complaint is intended to harass or is without a reasonable basis, the department may dismiss the complaint.

55.6(2) Content of complaint reports. The complaint shall include as much of the following information as possible: the complainant's name, address, and telephone number; the complainant's relationship to the health care employment agency; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department.

55.6(3) Time frames for investigation of complaints. Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary investigation of the complaint to determine if probable cause exists to further investigate the complaint. If probable cause exists, an investigation of the health care employment agency shall be initiated within 45 working days.

55.6(4) Standard for determining whether a complaint is substantiated. The department shall apply a preponderance of the evidence standard in determining whether a complaint is substantiated.

55.6(5) Notification of the health care employment agency or alleged health care employment agency of results of investigation. The department shall notify the health care employment agency or alleged health care employment agency, in writing, of the final report of the complaint investigation.

55.6(6) Notification of the complainant of results of investigation. The complainant, if known, shall be notified of the final findings of a complaint investigation. The complainant, if known, shall also be notified if the department determines not to further investigate after the preliminary investigation and shall receive an explanation of the department's decision.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.7(89GA, HF2521) Investigations.

55.7(1) Initiation of investigations. Investigations may be initiated because of a complaint or other information received by the department or upon referral from other agencies. If the department determines there is probable cause to believe that a health care employment agency is an unregistered health care employment agency or that a registered health care employment agency is not in compliance with state, federal, or local statutes or rules, an investigation shall be initiated.

55.7(2) Evaluation of allegations and referral to other agencies. If an investigation is initiated, the department shall evaluate the allegations to determine whether the allegations should also be referred to other local, state, or federal agencies. If the department believes a criminal violation has occurred or is occurring, it shall notify the appropriate law enforcement entities.

55.7(3) Access to records. An inspector of the department may enter a health care employment agency without a warrant and may examine and copy all records and items pertaining to the investigation unless the record or item is protected by some other legal privilege.

[ARC 6711C, IAB 11/30/22, effective 1/4/23]

481—55.8(89GA, HF2521) Penalties. A health care employment agency that violates Iowa Code sections 135Q.2(1) through 135Q.2(3) as enacted by 2022 Iowa Acts, House File 2521, or rule

481—55.3(89GA, HF2521) shall be subject to the associated penalties under Iowa Code section 135Q.2(5) as enacted by 2022 Iowa Acts, House File 2521.
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481—55.9(89GA, HF2521) Public and confidential information.

55.9(1) *Public disclosure.* The following records are open and available for inspection:

- a. Registration forms and accompanying materials;
- b. Final findings of the department's investigations;
- c. Official notices of penalties; and
- d. Any records required to be submitted to the department by the health care employment agency pursuant to Iowa Code section 135Q.2(4) as enacted by 2022 Iowa Acts, House File 2521, and subrule 55.5(3) (quarterly reporting to the department).

55.9(2) *Confidential information.* Confidential information includes the following:

a. Information obtained by the department that does not comprise a final finding resulting from a complaint investigation. Investigation information which does not comprise a final finding may be made public in a contested case proceeding concerning the department's final findings, including the imposition of a monetary penalty or the denial or revocation of registration.

b. Names and identifying information of all complainants.

55.9(3) *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted prior to an agency's providing the record for inspection.

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These rules are intended to implement 2022 Iowa Acts, House File 2521.

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