

Senate File 506

H-8217

1 Amend the amendment, H-8210, to Senate File 506, as amended,  
2 passed, and reprinted by the Senate, as follows:

3 1. Page 7, after line 1 by inserting:

4 <DIVISION \_\_\_\_

5 NURSING FACILITY TRAINING AND CITATION REVIEWS

6 Sec. \_\_\_\_ . NEW SECTION. 135C.35C Nursing facilities — joint  
7 training sessions.

8 The department shall semiannually provide joint training  
9 sessions for inspectors and nursing facilities to review at  
10 least three of the ten most frequently issued federal citations  
11 in the state during the immediately preceding calendar year.  
12 The department shall develop a protocol to identify regional  
13 citation patterns relating to complaints, standards, and  
14 outcomes in the nursing facility inspection process. The  
15 department shall include the state long-term care ombudsman,  
16 or the state long-term care ombudsman's designee, and  
17 representatives of each nursing facility provider association  
18 in the state in the planning process for the joint training  
19 sessions.

20 Sec. \_\_\_\_ . Section 135C.40, subsection 1, Code 2024, is  
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. *d.* (1) The department shall establish and  
23 maintain a process to review each citation issued for immediate  
24 jeopardy or substandard quality of care prior to issuance of  
25 final findings under section 135C.40A. Representatives of the  
26 nursing facility issued such a citation may participate in  
27 the review to provide context and evidence for the department  
28 to consider in determining if a final finding of immediate  
29 jeopardy or substandard quality of care should be issued. The  
30 review shall ensure consistent and accurate application of  
31 federal and state inspection protocols and defined regulatory  
32 standards.

33 (2) For the purposes of this paragraph:

34 (a) "*Immediate jeopardy*" means a situation in which the  
35 provider's noncompliance with one or more requirements of

1 participation has caused, or is likely to cause, serious  
2 injury, harm, impairment, or death to a resident.

3 (b) *“Likely”* means probable and reasonably to be expected,  
4 and suggests a greater degree of probability than a mere risk,  
5 potential, or possibility that a particular event will cause  
6 serious injury, harm, impairment, or death to a resident.

7 (c) *“Substandard quality of care”* means the same as defined  
8 in 42 C.F.R. §488.301.

9

DIVISION \_\_\_\_

10 HEALTH CARE EMPLOYMENT AGENCIES AND AGENCY WORKERS

11 Sec. \_\_\_\_ . Section 135Q.1, Code 2024, is amended to read as  
12 follows:

13 **135Q.1 Definitions.**

14 As used in [this chapter](#), unless the context otherwise  
15 requires:

16 1. *“Department”* means the department of inspections,  
17 appeals, and licensing.

18 2. *“Health care employment agency”* or *“agency”* means ~~an~~ any  
19 of the following:

20 a. An agency that contracts with a health care entity  
21 in this state to provide agency workers for temporary or  
22 temporary-to-hire employee placements.

23 b. A health care technology platform.

24 3. *“Health care employment agency worker”* or *“agency worker”*  
25 means an individual who contracts with or is employed by a  
26 health care employment agency to provide nursing services to  
27 health care entity consumers.

28 4. *“Health care entity”* means a facility, agency, or program  
29 licensed or certified by the department or by the centers for  
30 Medicare and Medicaid services of the United States department  
31 of health and human services.

32 5. “Health care technology platform” or “platform” includes  
33 an individual, a trust, a partnership, a corporation, a limited  
34 liability partnership or company, or any other business entity  
35 that develops and operates, offers, or maintains a system or

1 technology that provides an internet-based or application-based  
2 marketplace through which an individual as an independent  
3 contractor, and in the individual's sole discretion, chooses  
4 when and how often to utilize the platform to bid on or select  
5 open shifts posted by a health care entity to provide nursing  
6 services to a health care entity.

7 5- 6. *"Managing entity"* means a business entity,  
8 owner, ownership group, chief executive officer, program  
9 administrator, director, or other decision maker whose  
10 responsibilities include directing the management or policies  
11 of a health care employment agency. *"Managing entity"* includes  
12 an individual who, directly or indirectly, holds a beneficial  
13 interest in a corporation, partnership, or other business  
14 entity that constitutes a managing entity.

15 6- 7. *"Nursing services"* means those services which may be  
16 provided only by or under the supervision of a nurse. *"Nursing*  
17 *services"* includes services performed by a registered nurse, a  
18 licensed practical nurse, a certified nurse aide, a certified  
19 medication aide, a home health aide, a medication manager, or  
20 by noncertified or nonlicensed staff providing personal care  
21 as defined in [section 231C.2](#). *"Nursing services"* does not  
22 include the practice of nursing by an advanced registered nurse  
23 practitioner or an advanced practice registered nurse licensed  
24 under [chapter 152](#) or [152E](#).

25 Sec. \_\_\_\_ . Section 135Q.2, Code 2024, is amended to read as  
26 follows:

27 **135Q.2 Health care employment agency requirements —**  
28 **registration — liability — ~~penalties~~.**

29 1. *a.* A health care employment agency operating in the  
30 state shall register annually with the department. Each  
31 separate location of a health care employment agency shall  
32 register annually with and pay an annual registration fee of  
33 five hundred dollars to the department. The department shall  
34 issue each location a separate certification of registration  
35 upon approval of registration and payment of the fee. The

1 annual registration fees shall be retained by the department as  
2 repayment receipts as defined in [section 8.2](#).

3 b. A health care employment agency that fails to register  
4 with the department as required under this section is  
5 prohibited from contracting with a health care entity in this  
6 state.

7 2. A health care employment agency shall do all of the  
8 following:

9 a. Ensure that agency workers comply with all applicable  
10 requirements relating to the health requirements and  
11 qualifications of personnel in health care entity settings.

12 b. Document that each agency worker meets the minimum  
13 licensing, certification, training, and health requirements  
14 and the continuing education standards for the agency worker's  
15 position in the health care entity setting.

16 c. Maintain records for each agency worker and report,  
17 file, or otherwise provide any required documentation to  
18 external parties or regulators which would otherwise be the  
19 responsibility of the health care entity if the agency worker  
20 was employed by the health care entity.

21 d. Maintain professional and general liability insurance  
22 coverage with minimum per occurrence coverage of one million  
23 dollars and aggregate coverage of three million dollars to  
24 insure against loss, damage, or expense incident to a claim  
25 arising out of the death or injury of any person as the result  
26 of negligence or malpractice in the provision of services by  
27 the agency or an agency worker.

28 3. a. A health care employment agency shall not do any of  
29 the following:

30 (1) Restrict in any manner the employment opportunities  
31 of an agency worker by including a non-compete clause in any  
32 contract with an agency worker or health care entity.

33 (2) In any contract with an agency worker or health care  
34 entity, require payment of liquidated damages, employment fees,  
35 or other compensation if the agency worker is subsequently

1 hired as a permanent employee of the health care entity.

2 *b.* This subsection shall not apply to a contract between  
3 a health care employment agency and an agency worker or a  
4 health care entity if the contract meets all of the following  
5 criteria:

6 (1) The contract is entered into for the purpose of placing  
7 an agency worker the health care employment agency assisted in  
8 obtaining authorization to work in the United States.

9 (2) The contract contains an initial duration term of  
10 not less than twenty-four months and a total duration term,  
11 including any renewals or extensions, of not more than  
12 thirty-six months.

13 (3) The contract requires the agency worker to work for  
14 a single health care entity for the entire duration of the  
15 contract.

16 *c.* Any contract that violates this subsection shall be  
17 unenforceable in court.

18 4. A health care employment agency shall submit a report to  
19 the department on a quarterly basis for each health care entity  
20 participating in Medicare or Medicaid with whom the agency  
21 contracts that includes all of the following by provider type:

22 *a.* A detailed list of the average amount charged to the  
23 health care entity for each individual agency worker category.

24 *b.* A detailed list of the average amount paid by the agency  
25 to agency workers in each individual agency worker category.

26 ~~5. *a.* A health care employment agency that violates  
27 subsection 1 or subsection 2 is subject to denial or revocation  
28 of registration for a period of one year and a monetary penalty  
29 of five hundred dollars for a first offense and five thousand  
30 dollars for each offense thereafter.~~

31 ~~*b.* A health care employment agency that violates subsection  
32 3 or that knowingly provides an agency worker who has an  
33 illegally or fraudulently obtained or issued diploma,  
34 registration, license, certification, or background check to  
35 a health care entity is subject to immediate revocation of~~

1 registration. The department shall notify the agency thirty  
2 days in advance of the date of such revocation.

3 ~~c. (1) The managing entity of an agency for which  
4 registration has been denied or revoked under this subsection  
5 shall not be eligible to apply for or be granted registration  
6 for another agency during the two-year period following the  
7 date of the denial or revocation.~~

8 ~~(2) The department shall not approve a new registration  
9 or renew an existing registration for any agency for which  
10 the managing entity is also the managing entity of an agency  
11 for which registration has been denied or revoked during the  
12 two-year period in which registration of the violating agency  
13 is denied or revoked.~~

14 ~~6.~~ 5. The department shall establish a system for members  
15 of the public to report complaints against an agency or  
16 agency worker. The department shall investigate any complaint  
17 received and shall report the department's findings to the  
18 complaining party and the agency involved.

19 Sec. \_\_\_\_ . NEW SECTION. 135Q.3 Penalties — enforcement.

20 1. a. A health care employment agency that violates  
21 section 135Q.2, subsection 1 or 4, is subject to an initial  
22 monetary penalty of five thousand dollars and shall be provided  
23 notification and given a thirty-day grace period in which to  
24 comply.

25 b. A health care employment agency that fails to comply  
26 following the notification and within the thirty-day grace  
27 period under paragraph "a" shall be subject to a monetary penalty  
28 of twenty-five thousand dollars.

29 c. If a health care employment agency fails to comply  
30 with paragraph "b", the health care employment agency shall  
31 be subject to an additional monetary penalty of twenty-five  
32 thousand dollars, revocation of registration, and denial of  
33 subsequent registration for up to three years.

34 2. a. A health care employment agency that violates section  
35 135Q.2, subsection 2, or that knowingly provides an agency

1 worker who has an illegally or fraudulently obtained or issued  
2 diploma, registration, license, certification, or background  
3 check to a health care entity is subject to a monetary penalty  
4 of five thousand dollars for each violation.

5 *b.* If a health care employment agency commits a second or  
6 subsequent violation of section 135Q.2, subsection 2, within  
7 any three-year period, the health care employment agency shall  
8 be subject to immediate revocation of registration. The  
9 department shall notify the agency thirty days in advance of  
10 the date of such revocation.

11 3. A health care employment agency that violates section  
12 135Q.2, subsection 3, is subject to a monetary penalty of  
13 twenty-five thousand dollars for the first violation. If  
14 a health care employment agency violates section 135Q.2,  
15 subsection 3, a second or subsequent time, the health care  
16 employment agency shall be subject to immediate revocation of  
17 registration, and shall not be eligible to apply for or be  
18 granted registration for the three-year period immediately  
19 following the date of revocation.

20 4. *a.* The managing entity of an agency for which  
21 registration has been denied or revoked under this section  
22 shall not be eligible to apply for or be granted registration  
23 for another agency during the three-year period following the  
24 date of the denial or revocation.

25 *b.* The department shall not approve a new registration  
26 or renew an existing registration for any agency for which  
27 the managing entity is also the managing entity of an agency  
28 for which registration has been denied or revoked during the  
29 three-year period in which registration of the violating agency  
30 is denied or revoked.

31 5. Any monetary penalties collected under this section  
32 shall be retained by the department as repayment receipts as  
33 defined in section 8.2.

34 6. The attorney general shall enforce the provisions of this  
35 chapter.

1     Sec. \_\_\_\_\_. NEW SECTION. 135Q.4 Department annual report.

2     The department shall submit an annual report to the general  
3 assembly by January 15, for the immediately preceding fiscal  
4 year, that includes a summary of the number of registrations  
5 issued and the amount of registration fees collected, the  
6 violations of this chapter, the amount of monetary penalties  
7 collected, the number of health care employment agencies and  
8 managing entities for whom a registration was revoked or  
9 denied, and any recommendations for changes to the chapter.

10    Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this Act, being  
11 deemed of immediate importance, takes effect upon enactment.>

12    2. Page 7, by striking lines 2 through 4 and inserting:

13    <\_\_\_\_. Title page, line 2, after <process,> by inserting  
14 <training and citation reviews, and health care employment  
15 agencies and agency workers, providing civil and criminal  
16 liability limitations under certain circumstances, providing  
17 penalties,>>

18    3. By renumbering as necessary.

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