

CHAPTER 135Q

HEALTH CARE EMPLOYMENT AGENCIES AND WORKERS

135Q.1	Definitions.	135Q.3	Health care technology platform requirements — registration
135Q.2	Health care employment agency requirements — registration — liability.	135Q.4	— liability.
		135Q.5	Penalties — enforcement.
			Department annual report.

135Q.1 Definitions.

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

1. “*Affiliate*” means an entity that directly or indirectly is controlled with or by, or is under the common control with, a health care entity. For the purposes of [this subsection](#), “*control*” means the same as defined in [section 423.3, subsection 92](#), paragraph “e”.

2. “*Department*” means the department of inspections, appeals, and licensing.

3. a. “*Health care employment agency*” or “*agency*” means an agency that contracts with a health care entity in this state to provide agency workers for temporary or temporary-to-hire employee placements.

b. “*Health care employment agency*” does not include a health care entity or an affiliate of a health care entity when acting as a health care employment agency for the sole purpose of providing agency workers to the health care entity itself or to an affiliate of the health care entity.

c. “*Health care employment agency*” does not include a health care technology platform.

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

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

6. “*Health care technology platform*” or “*platform*” includes an individual, a trust, a partnership, a corporation, a limited liability partnership or company, or any other business entity that develops and operates, offers, or maintains a system or technology that provides an internet-based or application-based marketplace through which an independent nursing services professional bids on open shifts posted by a health care entity to provide nursing services for the health care entity.

7. “*Independent nursing services professional*” means a person engaged as an independent contractor through a health care technology platform to provide nursing services for a health care entity. An independent nursing services professional shall be considered an independent contractor provided the independent nursing services professional in the independent nursing services professional’s sole discretion bids on open shifts and chooses where, when, and how often to work.

8. “*Individual agency worker category*” includes registered nurses, licensed practical nurses, certified nurse aides, certified medication aides, home health aides, medication managers, and noncertified or nonlicensed staff providing personal care as defined in [section 231C.2](#) who are health care employment agency workers.

9. “*Managing entity*” means a business entity, owner, ownership group, chief executive officer, program administrator, director, or other decision maker whose responsibilities include directing the management or policies of a health care employment agency or a health care technology platform. “*Managing entity*” includes an individual who, directly or indirectly, holds a beneficial interest in a corporation, partnership, or other business entity that constitutes a managing entity.

10. “*Nursing services*” means those services which may be provided only by or under the supervision of a nurse. “*Nursing services*” includes services performed by a registered nurse, a licensed practical nurse, a certified nurse aide, a certified medication aide, a home health aide, a medication manager, or by noncertified or nonlicensed staff providing personal care as defined in [section 231C.2](#). “*Nursing services*” does not include the practice of nursing by

an advanced registered nurse practitioner or an advanced practice registered nurse licensed under [chapter 152](#) or [152E](#).

11. “*Nursing services professionals*” includes registered nurses, licensed practical nurses, certified nurse aides, certified medication aides, home health aides, medication managers, and noncertified or nonlicensed staff providing personal care as defined in [section 231C.2](#), who are not health care employment agency workers but instead are employed directly by or contract directly with a health care entity.

[2022 Acts, ch 1069, §1](#); [2022 Acts, ch 1153, §49](#); [2023 Acts, ch 19, §1905](#); [2023 Acts, ch 131, §1, 3](#); [2024 Acts, ch 1157, §63, 68](#)

135Q.2 Health care employment agency requirements — registration — liability.

1. *a.* A health care employment agency operating in the state shall register annually with the department. Each separate location of a health care employment agency shall register annually with and pay an annual registration fee of five hundred dollars to the department. The department shall issue each location a separate certification of registration upon approval of registration and payment of the fee. The annual registration fees shall be retained by the department as appropriated receipts as defined in [section 8.2](#).

b. A health care employment agency that fails to register with the department as required under [this subsection](#) shall be prohibited from contracting with any health care entity in this state.

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

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

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

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

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

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

(1) Restrict in any manner the employment opportunities of an agency worker by including a noncompete clause in any contract with an agency worker or health care entity.

(2) In any contract with an agency worker or health care entity, require payment of liquidated damages, employment fees, or other compensation if the agency worker is subsequently hired as a permanent employee of the health care entity.

b. [This subsection](#) shall not apply to a contract between a health care employment agency and an agency worker or a health care entity if the contract meets all of the following criteria:

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

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

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

c. Any contract that violates [this subsection](#) shall be unenforceable in court.

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

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

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

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

2022 Acts, ch 1069, §2; 2022 Acts, ch 1153, §49; 2023 Acts, ch 131, §2, 3; 2024 Acts, ch 1157, §64, 68; 2024 Acts, ch 1185, §140

Referred to in §135Q.4

135Q.3 Health care technology platform requirements — registration — liability.

1. a. A health care technology platform operating in the state shall register annually with the department and pay an annual registration fee of five hundred dollars to the department. The department shall issue each health care technology platform a certificate of registration upon approval of registration and payment of the fee. The annual registration fees shall be retained by the department as appropriated receipts as defined in [section 8.2](#).

b. A health care technology platform that fails to register with the department as required under [this subsection](#) shall be prohibited from contracting with any health care entity in this state.

c. A health care technology platform that allows independent nursing services professionals to utilize the platform to bid on open shifts is an authorized agency for purposes of access to the single contact repository. A health care technology platform shall rerun background checks for an independent nursing services professional following two consecutive years of inactivity on the platform by the independent nursing services professional.

2. A health care technology platform shall verify that an independent nursing services professional utilizing the platform does all of the following:

a. Supplies documentation demonstrating that the independent nursing services professional meets all applicable state requirements and qualifications of personnel in a health care entity setting.

b. Meets all applicable minimum state licensing and certification requirements.

c. Maintains professional liability insurance coverage with the minimum per occurrence coverage of one million dollars and aggregate coverage of three million dollars to insure against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of services by the independent nursing services professional.

3. a. A health care technology platform shall not do any of the following:

(1) Restrict in any manner the employment opportunities of an independent nursing services professional by including a noncompete clause in any contract with an independent nursing services professional or health care entity.

(2) In any contract with an independent nursing services professional or health care entity, require payment of liquidated damages, employment fees, or other compensation if the independent nursing services professional is subsequently hired as a permanent employee or is engaged directly as a contractor of the health care entity.

b. Any contract that violates this subsection shall be unenforceable in court.

4. The department shall establish a system for members of the public to report complaints against a health care technology platform or an independent nursing services professional. The department shall investigate any complaint received and shall report the department's findings to the complaining party and the health care technology platform involved.

2024 Acts, ch 1157, §65, 68; 2024 Acts, ch 1185, §84

Referred to in §135Q.4

135Q.4 Penalties — enforcement.

1. a. A health care employment agency that violates [section 135Q.2, subsection 1 or 4](#), is subject to an initial monetary penalty of five thousand dollars and shall be provided notification by the department and given a thirty-day grace period in which to comply.

b. A health care employment agency that fails to comply following the notification and

within the thirty-day grace period under paragraph “a” shall be subject to a monetary penalty of twenty-five thousand dollars.

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

2. a. A health care employment agency that violates [section 135Q.2, subsection 2](#), or that knowingly provides an agency worker who has an illegally or fraudulently obtained or issued diploma, registration, license, certification, or background check to a health care entity is subject to a monetary penalty of five thousand dollars for each violation.

b. If a health care employment agency commits a second or subsequent violation of [section 135Q.2, subsection 2](#), within any three-year period, the health care employment agency shall be subject to immediate revocation of registration. The department shall notify the agency thirty days in advance of the date of such revocation.

3. A health care employment agency that violates [section 135Q.2, subsection 3](#), is subject to a monetary penalty of twenty-five thousand dollars for the first violation. If a health care employment agency violates [section 135Q.2, subsection 3](#), a second or subsequent time, the health care employment agency shall be subject to immediate revocation of registration, and shall not be eligible to apply for or be granted registration for the three-year period immediately following the date of revocation.

4. a. (1) A health care technology platform that violates [section 135Q.3, subsection 1](#), is subject to an initial monetary penalty of five thousand dollars and shall be provided notification by the department and given a thirty-day grace period in which to comply.

(2) A health care technology platform that fails to comply with the notification and within the thirty-day grace period under subparagraph (1) shall be subject to a monetary penalty of twenty-five thousand dollars.

(3) If a health care technology platform knowingly fails to comply with subparagraph (2), the health care technology platform shall be subject to an additional monetary penalty of twenty-five thousand dollars, revocation of registration, and denial of subsequent registration for up to three years.

b. (1) A health care technology platform that violates [section 135Q.3, subsection 2](#), or that knowingly allows an independent nursing services professional who has an illegally obtained or issued diploma, registration, license, certification, or background check to utilize the platform to bid on a shift for a health care entity is subject to a monetary penalty of five thousand dollars for each violation.

(2) If a health care technology platform commits a second or subsequent violation of [section 135Q.3, subsection 2](#), within any three-year period, the health care technology platform shall be subject to immediate revocation of registration. The department shall notify the health care technology platform thirty days in advance of the date of such revocation.

c. (1) A health care technology platform that violates [section 135Q.3, subsection 3](#), is subject to a monetary penalty of twenty-five thousand dollars for the first violation.

(2) If a health care technology platform violates [section 135Q.3, subsection 3](#), a second or subsequent time, the health care technology platform shall be subject to immediate revocation of registration, and shall not be eligible to apply for or be granted registration for the three-year period immediately following the date of revocation.

5. a. The managing entity of an agency for which registration has been denied or revoked under [this section](#) shall not be eligible to apply for or be granted registration for another agency during the three-year period following the date of the denial or revocation.

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

6. a. The managing entity of a health care technology platform for which registration has been denied or revoked under [this section](#) shall not be eligible to apply for or be granted registration for another health care technology platform during the two-year period following the date of the denial or revocation.

b. The department shall not approve a new registration or renew an existing registration for any health care technology platform for which the managing entity is also the managing entity of a health care technology platform for which registration has been denied or revoked during the two-year period in which registration of the violating health care technology platform is denied or revoked.

7. Any monetary penalties collected under this section shall be retained by the department as appropriated receipts as defined in [section 8.2](#).

8. The attorney general shall enforce [this chapter](#).
[2024 Acts, ch 1157, §66, 68; 2024 Acts, ch 1185, §84](#)

135Q.5 Department annual report.

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

[2024 Acts, ch 1157, §67, 68](#)