

**House File 2391 - Introduced**

HOUSE FILE 2391  
BY COMMITTEE ON HEALTH AND  
HUMAN SERVICES

(SUCCESSOR TO HF 2199)

**A BILL FOR**

1 An Act relating to health care employment agencies, including  
2 the statewide maximum allowable charges schedule applicable  
3 to nursing services provided by health care employment  
4 agency workers, providing penalties, and including effective  
5 date provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135Q.1, Code 2024, is amended to read as  
2 follows:

3 **135Q.1 Definitions.**

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

6 1. *“Department”* means the department of inspections,  
7 appeals, and licensing.

8 2. *“Health care employment agency”* or *“agency”* means an any  
9 of the following:

10 a. An agency that contracts with a health care entity  
11 in this state to provide agency workers for temporary or  
12 temporary-to-hire employee placements.

13 b. A health care technology platform.

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

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

22 5. “Health care technology platform” or “platform” includes  
23 an individual, a trust, a partnership, a corporation, a limited  
24 liability partnership or company, or any other business entity  
25 that develops and operates, offers, or maintains a system or  
26 technology that provides an internet-based or application-based  
27 marketplace through which an individual as an independent  
28 contractor, and in the individual’s sole discretion, chooses  
29 when and how often to utilize the platform to bid on or select  
30 open shifts posted by a health care entity to provide nursing  
31 services to a health care entity.

32 6. “Individual agency worker category” includes registered  
33 nurses, licensed practical nurses, certified nurse aides,  
34 certified medication aides, home health aides, medication  
35 managers, and noncertified or nonlicensed staff providing

1 personal care as defined in section 231C.2 who are health care  
2 employment agency workers.

3 ~~5.~~ 7. *"Managing entity"* means a business entity,  
4 owner, ownership group, chief executive officer, program  
5 administrator, director, or other decision maker whose  
6 responsibilities include directing the management or policies  
7 of a health care employment agency. *"Managing entity"* includes  
8 an individual who, directly or indirectly, holds a beneficial  
9 interest in a corporation, partnership, or other business  
10 entity that constitutes a managing entity.

11 ~~6.~~ 8. *"Nursing services"* means those services which may be  
12 provided only by or under the supervision of a nurse. *"Nursing*  
13 *services"* includes services performed by a registered nurse, a  
14 licensed practical nurse, a certified nurse aide, a certified  
15 medication aide, a home health aide, a medication manager, or  
16 by noncertified or nonlicensed staff providing personal care  
17 as defined in [section 231C.2](#). *"Nursing services"* does not  
18 include the practice of nursing by an advanced registered nurse  
19 practitioner or an advanced practice registered nurse licensed  
20 under [chapter 152](#) or [152E](#).

21 9. *"Nursing services professionals"* includes registered  
22 nurses, licensed practical nurses, certified nurse aides,  
23 certified medication aides, home health aides, medication  
24 managers, and noncertified or nonlicensed staff providing  
25 personal care as defined in section 231C.2 who are not health  
26 care employment agency workers but instead are employed  
27 directly by or contract directly with a health care entity.

28 Sec. 2. Section 135Q.2, Code 2024, is amended to read as  
29 follows:

30 **135Q.2 Health care employment agency requirements —**  
31 **registration — liability — penalties.**

32 1. a. A health care employment agency operating in the  
33 state shall register annually with the department. Each  
34 separate location of a health care employment agency shall  
35 register annually with and pay an annual registration fee of

1 five hundred dollars to the department. The department shall  
2 issue each location a separate certification of registration  
3 upon approval of registration and payment of the fee. The  
4 annual registration fees shall be retained by the department as  
5 repayment receipts as defined in [section 8.2](#).

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

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

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

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

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

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

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

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

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

5 (3) Use the establishment of, or the required applicability  
6 of, the statewide maximum allowable charges schedule as a basis  
7 for prohibiting or otherwise interfering with a wage increase  
8 for any agency worker.

9 b. **This subsection** shall not apply to a contract between  
10 a health care employment agency and an agency worker or a  
11 health care entity if the contract meets all of the following  
12 criteria:

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

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

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

23 c. Any contract that violates **this subsection** shall be  
24 unenforceable in court.

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

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

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

33 ~~5. a. A health care employment agency that violates~~  
34 ~~subsection 1 or subsection 2 is subject to denial or revocation~~  
35 ~~of registration for a period of one year and a monetary penalty~~

~~1 of five hundred dollars for a first offense and five thousand  
2 dollars for each offense thereafter.~~

~~3 b. A health care employment agency that violates subsection  
4 3 or that knowingly provides an agency worker who has an  
5 illegally or fraudulently obtained or issued diploma,  
6 registration, license, certification, or background check to  
7 a health care entity is subject to immediate revocation of  
8 registration. The department shall notify the agency thirty  
9 days in advance of the date of such revocation.~~

~~10 c. (1) The managing entity of an agency for which  
11 registration has been denied or revoked under this subsection  
12 shall not be eligible to apply for or be granted registration  
13 for another agency during the two-year period following the  
14 date of the denial or revocation.~~

~~15 (2) The department shall not approve a new registration  
16 or renew an existing registration for any agency for which  
17 the managing entity is also the managing entity of an agency  
18 for which registration has been denied or revoked during the  
19 two-year period in which registration of the violating agency  
20 is denied or revoked.~~

~~21 6. 5. The department shall establish a system for members  
22 of the public to report complaints against an agency or  
23 agency worker. The department shall investigate any complaint  
24 received and shall report the department's findings to the  
25 complaining party and the agency involved.~~

~~26 Sec. 3. NEW SECTION. 135Q.3 Statewide maximum allowable  
27 charges schedule — establishment and annual revision — required  
28 utilization and compliance — rules.~~

~~29 1. The department of health and human services shall  
30 annually establish and publish by September 30, a statewide  
31 maximum allowable charges schedule that shall be applicable  
32 January 1 of the immediately following calendar year to nursing  
33 services provided by a health care employment agency worker.  
34 The department of health and human services shall utilize the  
35 most recently preceding nursing facility cost report schedule~~

1 H to calculate the statewide maximum allowable charges. The  
2 department of health and human services, in collaboration  
3 with stakeholders, shall develop a process to periodically  
4 obtain wage information from provider types other than nursing  
5 facilities.

6 2. The amounts established in the statewide maximum  
7 allowable charges schedule shall meet all of the following  
8 requirements:

9 a. The amounts shall be no greater than one hundred fifty  
10 percent of the statewide average wage paid in the most recently  
11 preceding cost report year by a specific type of health care  
12 entity to a nursing services professional, within a specific  
13 nursing services professional category, and within the  
14 applicable core-based statistical area of the state.

15 b. The amounts shall be inclusive of the hourly rate,  
16 administrative fees, contract fees, transportation or travel  
17 stipends, per diems, and any other costs a health care  
18 employment agency is authorized to include in the charge to a  
19 health care entity for nursing services provided by an agency  
20 worker within an individual agency worker category.

21 3. Each separate location of a health care employment agency  
22 registered under section 135Q.2 shall utilize and comply with  
23 the statewide maximum allowable charges schedule established  
24 under this section.

25 4. The department of health and human services, in  
26 cooperation with the department, shall adopt rules pursuant to  
27 chapter 17A to administer this section.

28 Sec. 4. NEW SECTION. 135Q.4 Penalties — enforcement.

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

34 b. A health care employment agency that fails to comply  
35 following the notification and within the thirty-day grace

1 period under paragraph "a", shall be subject to a monetary  
2 penalty of twenty-five thousand dollars.

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

8 2. a. A health care employment agency that violates section  
9 135Q.2, subsection 2, or that knowingly provides an agency  
10 worker who has an illegally or fraudulently obtained or issued  
11 diploma, registration, license, certification, or background  
12 check to a health care entity is subject to a monetary penalty  
13 of five thousand dollars for each violation.

14 b. If a health care employment agency commits a second or  
15 subsequent violation of section 135Q.2, subsection 2, within  
16 any three-year period, the health care employment agency shall  
17 be subject to immediate revocation of registration. The  
18 department shall notify the agency thirty days in advance of  
19 the date of such revocation.

20 3. A health care employment agency that violates section  
21 135Q.2, subsection 3, is subject to a monetary penalty of  
22 twenty-five thousand dollars for the first violation. If  
23 a health care employment agency violates section 135Q.2,  
24 subsection 3, a second or subsequent time, the health care  
25 employment agency shall be subject to immediate revocation of  
26 registration, and shall not be eligible to apply for or be  
27 granted registration for the three-year period immediately  
28 following the date of revocation.

29 4. A health care employment agency that violates section  
30 135Q.3 shall be subject to a monetary penalty of five thousand  
31 dollars for the first violation, and a monetary penalty of  
32 twenty-five thousand dollars for each subsequent violation.

33 5. a. The managing entity of an agency for which  
34 registration has been denied or revoked under this section  
35 shall not be eligible to apply for or be granted registration





1 worker category" which includes specified health professionals  
2 who are agency workers, and "nursing services professionals"  
3 which includes the same specified health professionals who are  
4 not agency workers but are instead employed directly by, or  
5 contract directly with, a health care entity.

6 The bill requires the department of health and human  
7 services (HHS) to annually establish and publish by September  
8 30, a statewide maximum allowable charges schedule (charges  
9 schedule) applicable January 1 of the following calendar year  
10 to nursing services provided by agency workers. The amounts  
11 established in the charges schedule must be no greater than  
12 150 percent of the statewide average wage paid in the most  
13 recently preceding cost report year by a specific type of  
14 health care entity to a nursing services professional, within  
15 a specific nursing services professional category, and within  
16 the applicable core-based statistical area of the state; and  
17 must be inclusive of the hourly rate, administrative fees,  
18 contract fees, transportation or travel stipends, per diems,  
19 and any other costs an agency is authorized to include in the  
20 charge to a health care entity for nursing services provided by  
21 an agency worker within an individual agency worker category.  
22 The bill requires each separate location of an agency  
23 registered in the state to utilize and comply with the charges  
24 schedule established under the bill. The bill directs HHS in  
25 cooperation with the department of inspections, appeals, and  
26 licensing (DIAL) to adopt administrative rules to administer  
27 these provisions of the bill. The bill prohibits an agency  
28 from using the establishment of, or the required applicability  
29 of, the charges schedule as a basis for prohibiting or  
30 otherwise interfering with a wage increase for any agency  
31 worker.

32 The bill amends current penalties under Code chapter  
33 135Q and includes new penalties for violations of provisions  
34 included in the bill.

35 The bill provides that an agency that violates Code

1 section 135Q.2(1) (relating to required registration and the  
2 prohibition against contracting with a health care entity in  
3 the state if the agency is not registered), or Code section  
4 135Q.2(4) (relating to submitting quarterly reports to DIAL),  
5 is subject to an initial monetary penalty of \$5,000 and shall  
6 be provided notification and given a 30-day grace period in  
7 which to comply. If the agency fails to comply following the  
8 notification and within the 30-day grace period, the agency  
9 shall be subject to a monetary penalty of \$25,000. If the  
10 agency continues the noncompliance, the agency shall be subject  
11 to an additional monetary penalty of \$25,000, revocation of  
12 registration, and denial of subsequent registration for up  
13 to three years. The bill also provides that an agency that  
14 violates Code section 135Q.2(2) (relating to certain prohibited  
15 restrictions on agency workers or health care entities and  
16 contracting prohibitions), or that knowingly provides an agency  
17 worker who has an illegally or fraudulently obtained or issued  
18 diploma, registration, license, certification, or background  
19 check to a health care entity is subject to a monetary penalty  
20 of \$5,000 for each violation, and to immediate revocation of  
21 registration. If the agency commits a second or subsequent  
22 violation within any three-year period, the health care  
23 employment agency shall be subject to immediate revocation of  
24 registration. Under the bill, an agency that violates Code  
25 section 135Q.2(3) (relating to contracting with agency workers  
26 and health care entities) is subject to a monetary penalty of  
27 \$25,000 for a first offense, and to immediate revocation of  
28 registration and denial of registration for the three-year  
29 period following revocation for a second or subsequent  
30 violation.

31 An agency that violates Code section 135Q.3 (relating  
32 to requirements regarding the statewide allowable charges  
33 schedule), shall be subject to a monetary penalty of \$5,000 for  
34 the first violation and a monetary penalty of \$25,000 for each  
35 subsequent violation.

1 The bill also provides that the managing entity of an agency  
2 for which registration has been denied or revoked shall not be  
3 eligible to apply for or be granted registration for another  
4 agency during the three-year period following the date of  
5 the denial or revocation; and DIAL shall not approve a new  
6 registration or renew an existing registration for any agency  
7 for which the managing entity is also the managing entity of  
8 an agency for which registration has been denied or revoked  
9 during the three-year period in which registration of the  
10 violating agency is denied or revoked. The bill provides that  
11 any monetary penalties collected shall be retained by DIAL as  
12 repayment receipts as defined in Code section 8.2. The bill  
13 provides that the attorney general shall enforce the provisions  
14 of the bill.

15 The bill requires DIAL to submit an annual report to  
16 the general assembly by January 15, for the immediately  
17 preceding fiscal year, that includes a summary of the number  
18 of registrations issued and the amount of registration  
19 fees collected, the violations of the chapter, the amount  
20 of monetary penalties collected, the number of health  
21 care employment agencies and managing entities for whom a  
22 registration was revoked or denied, the charges schedule, and  
23 any recommendations for changes to the Code chapter. The bill  
24 takes effect upon enactment.