

Senate File 327 - Introduced

SENATE FILE 327
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO SSB 1044)

A BILL FOR

1 An Act relating to health care employment agencies, health
2 care employment agency workers, and health care entities,
3 providing for the use of annual registration fees, and
4 including retroactive applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135Q.1, Code 2023, 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 and
7 appeals.

8 ~~2. *“Direct services”* means services provided to consumers~~
9 ~~through person-to-person contact. *“Direct services”* excludes~~
10 ~~services performed by persons in a health care entity setting~~
11 ~~that do not involve the provision of any service or treatment~~
12 ~~to a consumer of a health care entity. *“Direct services”* does~~
13 ~~not include the practice of medicine and surgery or osteopathic~~
14 ~~medicine and surgery by an individual licensed under chapter~~
15 ~~148 or the practice of nursing by an advanced registered nurse~~
16 ~~practitioner or an advanced practice registered nurse licensed~~
17 ~~under [chapter 152](#) or [152E](#).~~

18 ~~3. 2. *“Health care employment agency”* or *“agency”* means an~~
19 ~~agency that contracts with a health care entity in this state~~
20 ~~to provide agency workers for temporary, or temporary-to-hire,~~
21 ~~direct hire, or other contract or employee placements.~~

22 ~~4. 3. *“Health care employment agency worker”* or *“agency*
23 ~~*worker”* means an individual who contracts with or is employed by~~
24 ~~a health care employment agency to provide direct services or~~
25 ~~nursing services to health care entity consumers.~~~~

26 ~~5. 4. *“Health care entity”* means a facility, agency, or
27 ~~program licensed or certified facility, organization, or agency~~
28 ~~operated to provide services and supports to meet the health or~~
29 ~~personal care needs of consumers by the department or by the~~
30 ~~centers for Medicare and Medicaid services of the United States~~
31 ~~department of health and human services.~~~~

32 ~~6. 5. *“Managing entity”* means a business entity,~~
33 ~~owner, ownership group, chief executive officer, program~~
34 ~~administrator, director, or other decision maker whose~~
35 ~~responsibilities include directing the management or policies~~

1 of a health care employment agency. *“Managing entity”* includes
2 an individual who, directly or indirectly, holds a beneficial
3 interest in a corporation, partnership, or other business
4 entity that constitutes a managing entity.

5 ~~7.~~ 6. *“Nursing services”* means those services which may be
6 provided only by or under the supervision of a nurse. *“Nursing*
7 *services”* includes services performed by a registered nurse, a
8 licensed practical nurse, a certified nurse aide, a certified
9 medication aide, a home health aide, a medication manager, or
10 by noncertified or nonlicensed staff providing personal care
11 as defined in section 231C.2. *“Nursing services”* does not
12 include the practice of nursing by an advanced registered nurse
13 practitioner or an advanced practice registered nurse licensed
14 under [chapter 152](#) or [152E](#).

15 Sec. 2. Section 135Q.2, subsections 1 and 3, Code 2023, are
16 amended to read as follows:

17 1. A health care employment agency operating in the state
18 shall register annually with the department. Each separate
19 location of a health care employment agency shall register
20 annually with and pay an annual registration fee of five
21 hundred dollars to the department. The department shall issue
22 each location a separate certification of registration upon
23 approval of registration and payment of the fee. The annual
24 registration fees shall be retained by the department as
25 repayment receipts as defined in section 8.2.

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

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

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

35 *b.* This subsection shall not apply to a contract between

1 a health care employment agency and an agency worker or a
2 health care entity if the contract meets all of the following
3 criteria:

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

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

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

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

16 Sec. 3. RETROACTIVE APPLICABILITY. This Act applies
17 retroactively to any contract between a health care employment
18 agency and an agency worker or health care entity referred to
19 under section 135Q.2 that was entered into or executed on or
20 after January 1, 2019.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to health care employment agencies, health
25 care employment agency workers, and health care entities
26 under Code chapter 135Q (health care employment agencies and
27 workers).

28 The bill amends the current Code chapter so that the chapter
29 is only applicable to health care employment agencies and
30 agency workers who provide nursing services as defined in the
31 bill.

32 The bill also excludes from application of the provisions of
33 Code section 135Q.2, relating to a contract between a health
34 care employment agency and an agency worker or health care
35 entity, a contract between a health care employment agency

1 and an agency worker or health care entity if the contract
2 is entered into for the purpose of placing an agency worker
3 the health care employment agency assisted in obtaining
4 authorization to work in the United States; contains an initial
5 duration term of not less than 24 months and a total duration
6 term, including any renewals or extensions, of not more than
7 36 months; and requires the agency worker to work for a single
8 health care entity for the entire duration of the contract.

9 The bill provides that the registration fees collected by
10 the department of inspections and appeals are retained by the
11 department.

12 The bill applies retroactively to any contract between a
13 health care employment agency and an agency worker or health
14 care entity referred to under Code section 135Q.2 that was
15 entered into or executed on or after January 1, 2019.