

Senate Study Bill 1044 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS
BILL)

A BILL FOR

1 An Act relating to health care employment agencies, health care
2 employment agency workers, and health care entities, and
3 including retroactive applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135Q.1, subsection 2, Code 2023, is
2 amended to read as follows:

3 2. "*Direct services*" means services provided to consumers
4 through person-to-person contact.

5 a. "*Direct services*" includes services performed by a
6 registered nurse, a licensed practical nurse, a certified nurse
7 aide, a certified medication aide, or a medication manager.

8 b. "*Direct services*" excludes services all of the following:

9 (1) Services performed by persons in a health care entity
10 setting that do not involve the provision of any service or
11 treatment to a consumer of a health care entity. ~~"Direct~~
12 ~~services" does not include the~~

13 (2) Janitorial, housekeeping, laundry, and meal preparation
14 services.

15 (3) The practice of medicine and surgery or osteopathic
16 medicine and surgery by an individual licensed under chapter
17 148 or the.

18 (4) 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 (5) The practice of medicine by an individual licensed under
22 chapter 148C to practice as a physician assistant under the
23 supervision of one or more physicians.

24 (6) The practice of physical therapy by an individual
25 licensed under chapter 148A.

26 (7) The practice of occupational therapy by an individual
27 licensed under chapter 148B.

28 (8) The practice of speech pathology or audiology by an
29 individual licensed under chapter 154F.

30 Sec. 2. Section 135Q.2, subsection 3, Code 2023, is amended
31 to read as follows:

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

34 (1) Restrict in any manner the employment opportunities
35 of an agency worker by including a non-compete clause in any

1 contract with an agency worker or health care entity.

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

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

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

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

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

20 c. Any contract that violates **this subsection** shall be
21 unenforceable in court.

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

27 EXPLANATION

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

30 This bill relates to health care employment agencies, health
31 care employment agency workers, and health care entities
32 under Code chapter 135Q (health care employment agencies and
33 workers).

34 The bill specifically includes as "direct services" those
35 services performed by a registered nurse, a licensed practical

1 nurse, a certified nurse aide, a certified medication aide,
2 and a medication manager. The bill specifically excludes
3 as "direct services", in addition to current exclusions,
4 janitorial, housekeeping, laundry, and meal preparation
5 services; the practice of medicine by an individual licensed
6 under Code chapter 148C to practice as a physician assistant
7 under the supervision of one or more physicians (physician
8 assistants); the practice of physical therapy by an individual
9 licensed under Code chapter 148A (physical therapy); the
10 practice of occupational therapy by an individual licensed
11 under Code chapter 148B (occupational therapy); and the
12 practice of speech pathology or audiology by an individual
13 licensed under Code chapter 154F (speech pathology and
14 audiology).

15 The bill also excludes from application of the provisions of
16 Code section 135Q.2, relating to a contract between a health
17 care employment agency and an agency worker or health care
18 entity, a contract between a health care employment agency
19 and an agency worker or health care entity if the contract
20 is entered into for the purpose of placing an agency worker
21 the health care employment agency assisted in obtaining
22 authorization to work in the United States; contains an initial
23 duration term of not less than 24 months and a total duration
24 term, including any renewals or extensions, of not more than
25 36 months; and requires the agency worker to work for a single
26 health care entity for the entire duration of the contract.

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