

House File 2521 - Reprinted

HOUSE FILE 2521

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2371)

(SUCCESSOR TO HSB 638)

(As Amended and Passed by the House March 2, 2022)

A BILL FOR

1 An Act relating to health care employment agencies, and
2 providing penalties.

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

1 Section 1. NEW SECTION. 135Q.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Department*" means the department of inspections and
5 appeals.

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

16 3. "*Health care employment agency*" or "*agency*" means an
17 agency that contracts with a health care entity in this state
18 to provide agency workers for temporary, temporary-to-hire,
19 direct hire, or other contract or employee placements.

20 4. "*Health care employment agency worker*" or "*agency worker*"
21 means an individual who contracts with or is employed by a
22 health care employment agency to provide direct services or
23 nursing services to health care entity consumers.

24 5. "*Health care entity*" means a licensed or certified
25 facility, organization, or agency operated to provide services
26 and supports to meet the health or personal care needs of
27 consumers.

28 6. "*Managing entity*" means a business entity, owner,
29 ownership group, chief executive officer, program
30 administrator, director, or other decision maker whose
31 responsibilities include directing the management or policies
32 of a health care employment agency. "*Managing entity*" includes
33 an individual who, directly or indirectly, holds a beneficial
34 interest in a corporation, partnership, or other business
35 entity that constitutes a managing entity.

1 7. "Nursing services" means those services which may be
2 provided only by or under the supervision of a nurse. "Nursing
3 services" does not include the practice of nursing by an
4 advanced registered nurse practitioner or an advanced practice
5 registered nurse licensed under chapter 152 or 152E.

6 Sec. 2. NEW SECTION. 135Q.2 Health care employment agency
7 requirements — registration — liability — penalties.

8 1. A health care employment agency operating in the state
9 shall register annually with the department. Each separate
10 location of a health care employment agency shall register
11 annually with and pay an annual registration fee of five
12 hundred dollars to the department. The department shall issue
13 each location a separate certification of registration upon
14 approval of registration and payment of the fee.

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

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

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

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

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

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

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

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

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

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

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

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

20 5. *a.* A health care employment agency that violates
21 subsection 1 or subsection 2 is subject to denial or revocation
22 of registration for a period of one year and a monetary penalty
23 of five hundred dollars for a first offense and five thousand
24 dollars for each offense thereafter.

25 *b.* A health care employment agency that violates subsection
26 3 or that knowingly provides an agency worker who has an
27 illegally or fraudulently obtained or issued diploma,
28 registration, license, certification, or background check to
29 a health care entity is subject to immediate revocation of
30 registration. The department shall notify the agency thirty
31 days in advance of the date of such revocation.

32 *c.* (1) The managing entity of an agency for which
33 registration has been denied or revoked under this subsection
34 shall not be eligible to apply for or be granted registration
35 for another agency during the two-year period following the

1 date of the denial or revocation.

2 (2) The department shall not approve a new registration
3 or renew an existing registration for any agency for which
4 the managing entity is also the managing entity of an agency
5 for which registration has been denied or revoked during the
6 two-year period in which registration of the violating agency
7 is denied or revoked.

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