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)
[= New Language by the House

A BILL FOR

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

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

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

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

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

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

3. *"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, temporary-to-hire, direct hire, or other contract or employee placements.

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 direct services or nursing services to health care entity consumers.

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

6. *"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. *"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.

7. *"Nursing services"* means those services which may be provided only by or under the supervision of a nurse. [*"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.]

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

1. 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.

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

b. A health care employment agency that violates subsection 3 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 immediate revocation of registration. The department shall notify the agency thirty days in advance of the date of such revocation.

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

date of the denial or revocation.

(2) 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 two-year period in which registration of the violating agency is denied or revoked.

6. 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.