

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 205 - L.D. 451

An Act to Ensure Transparent and Accountable Temporary Nurse Agencies

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2131, sub-§1, as amended by PL 2009, c. 621, §2, is further amended to read:

1. Registration; renewal. A temporary nurse agency shall register with the department and renew the registration as required by rule thereafter annually. In the event of a change of ownership, operation or location of the temporary nurse agency, the temporary nurse agency shall update the registration in accordance with rules adopted by the department. For purposes of this chapter, unless the context otherwise indicates, "temporary nurse agency" means a business entity or subdivision ~~thereof~~ of a business entity that primarily provides nurses, certified nursing assistants and other qualified staff to another organization on a temporary basis within this State. A temporary nurse agency does not include an agency licensed in this State as a home health care services provider.

Sec. 2. 22 MRSA §2131, sub-§1-B is enacted to read:

1-B. Employee quality assurance. A temporary nurse agency shall ensure that each employee the agency assigns or refers to a health care facility for a position meets the state and federal qualification requirements for that position and has the appropriate work experience for that position. A temporary nurse agency shall maintain a record for each employee that must include documented evidence of credentials and required immunizations and documentation of any orientation, in-service education and completion of training or an educational program required by law. On request, a temporary nurse agency shall make available a record described in this subsection to the department. On request by a health care facility and with justification according to rules adopted by the department, a temporary nurse agency shall provide a record described in this subsection for an employee of that health care facility to that health care facility.

Sec. 3. 22 MRSA §2131, sub-§1-C is enacted to read:

1-C. Predatory recruitment prohibited. A temporary nurse agency may not require, as a condition of employment, assignment or referral, that an employee of the temporary nurse agency or staff contracted to the temporary nurse agency recruit new employees for

the temporary nurse agency from among the permanent employees of the health care facility to which the temporary nurse agency employees or contracted staff have been assigned or referred.

Sec. 4. 22 MRSA §2131, sub-§1-D is enacted to read:

1-D. Annual reporting. A temporary nurse agency shall provide an annual report to the department that includes:

A. The number of total employees placed, the health care settings into which they were placed, the average duration of the placements and the state of licensure for those employees;

B. The total and average amounts charged during each quarter of the reporting period to a health care facility for each category of health care employee providing services to the health care facility;

C. The total and average amounts of wages paid during each quarter of the reporting period to health care employees for each category of health care employee;

D. The total and average amounts of stipends paid during each quarter of the reporting period to health care employees for each category of health care employee;

E. Documentation showing that the temporary nurse agency has documentation that each employee contracted to a health care facility during the reporting period had a current, unrestricted license or certification in good standing and met the training and continuing education standards required by state and federal law for the position with the health care facility throughout the entirety of the reporting period; and

F. Documentation showing that the temporary nurse agency has documentation that each employee contracted to a health care facility had successfully completed all background checks required by federal and state law relating to the health care position and health care facility in which the employee was placed during the reporting period.

Sec. 5. 22 MRSA §2131, sub-§2, as enacted by PL 1989, c. 579, §4, is repealed.

Sec. 6. 22 MRSA §2131, sub-§3, as amended by PL 2009, c. 590, §3, is further amended to read:

3. Fee. The initial and annual fee for registration is ~~\$25~~ \$1,000.

~~The department may adopt rules necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 7. 22 MRSA §2131, sub-§4, ¶C is enacted to read:

C. The department may impose a fine of not less than \$500 and not more than \$10,000 for each violation of this chapter on a person or business entity who operates a temporary nurse agency and who fails to:

(1) Meet the documentation requirements or make available to the department a record described in section 1-B; or

(2) Provide an annual report that includes the documentation required by section 1-D.

Sec. 8. 22 MRSA §2131, sub-§4-A is enacted to read:

4-A. Unfair trade practice. A person or business entity that operates a temporary nurse agency and fails to meet the requirements of this section violates the Maine Unfair Trade Practices Act.

Sec. 9. Report. No later than December 6, 2023, the Department of Health and Human Services shall provide to the Joint Standing Committee on Health and Human Services a summary report of the temporary nurse agency annual reports required by the Maine Revised Statutes, Title 22, section 2131, subsection 1-D.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF
Division of Licensing and Certification Z036**

Initiative: Provides funding for one Comprehensive Health Planner II position to assist with the tracking of temporary nurse agency registrations for administrative changes, complaint investigations, audits related to the new requirements and drafting the required annual report.

GENERAL FUND	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$39,228	\$41,393
All Other	\$2,549	\$2,549
GENERAL FUND TOTAL	\$41,777	\$43,942
OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
Personal Services	\$61,356	\$64,743
All Other	\$5,565	\$5,646
OTHER SPECIAL REVENUE FUNDS TOTAL	\$66,921	\$70,389