
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2293 Session of
2022

INTRODUCED BY BONNER, RAPP, EMRICK, B. MILLER, THOMAS, ZIMMERMAN
AND MENTZER, JANUARY 27, 2022

REFERRED TO COMMITTEE ON HEALTH, JANUARY 27, 2022

AN ACT

1 Amending the act of July 19, 1979 (P.L.130, No.48), entitled "An
2 act relating to health care; prescribing the powers and
3 duties of the Department of Health; establishing and
4 providing the powers and duties of the State Health
5 Coordinating Council, health systems agencies and Health Care
6 Policy Board in the Department of Health, and State Health
7 Facility Hearing Board in the Department of Justice;
8 providing for certification of need of health care providers
9 and prescribing penalties," providing for temporary health
10 care services agencies.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of July 19, 1979 (P.L.130, No.48), known
14 as the Health Care Facilities Act, is amended by adding a
15 chapter to read:

16 CHAPTER 8-A

17 TEMPORARY HEALTH CARE SERVICES AGENCIES

18 Section 801-A. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Controlling person." Any of the following:

1 (1) A business entity, officer, program administrator or
2 director whose responsibilities include the direction of the
3 management of policies of a temporary health care services
4 agency.

5 (2) An individual who, directly or indirectly,
6 beneficially owns an interest in a corporation, partnership,
7 or other business association that is a controlling person.

8 "Health care facility." Any of the following:

9 (1) A long-term care nursing facility as defined in
10 section 802.1.

11 (2) A personal care home or an assisted living
12 residence, licensed by the Department of Human Services under
13 the act of June 13, 1967 (P.L.31, No.21), known as the Human
14 Services Code.

15 "Health care personnel." Any of the following:

16 (1) A nurse aide as defined in section 2 of the act of
17 June 9, 1997 (P.L.169, No.14), known as the Nurse Aide
18 Resident Abuse Prevention Training Act.

19 (2) A registered nurse as defined in 49 Pa. Code § 21.1
20 (relating to definitions).

21 (3) An LPN as defined in 49 Pa. Code § 21.141 (relating
22 to definitions).

23 (4) A direct care staff person as defined in 55 Pa. Code
24 § 2600.4 (relating to definitions).

25 "Person." An individual, firm, corporation, partnership, or
26 association.

27 "Rate." The hourly rate of pay calculated, including weekend
28 shift differential and overtime, for the respective health care
29 personnel.

30 "Temporary health care services agency." As follows:

1 (1) A person engaged for hire in the business of
2 providing or procuring temporary employment in health care
3 facilities for health care personnel.

4 (2) The term does not include an individual who only
5 engages on the individual's own to provide services on a
6 temporary basis to health care facilities or a home health
7 care agency licensed under 28 Pa. Code Ch. 601 (relating to
8 home health care agencies).

9 Section 802-A. Registration generally.

10 (a) Requirement.--A person that operates a temporary health
11 care services agency shall register annually with the department
12 and provide a list of each separate location.

13 (b) Forms.--The department shall establish forms and
14 procedures for processing each application under subsection (a).

15 The following apply:

16 (1) The application shall include at least the
17 following:

18 (i) The names and addresses of each person having an
19 ownership interest in the temporary health care services
20 agency.

21 (ii) If the owner is a corporation, copies of the
22 articles of incorporation or articles of association and
23 current bylaws, together with the names and addresses of
24 officers and directors.

25 (iii) Any other relevant information that the
26 department determines necessary to properly evaluate the
27 application.

28 (2) The application shall specify the policies and
29 procedures regarding how the temporary health care services
30 agency's records shall be immediately available at all times

1 to the department upon request, except for those records
2 subject to confidentiality protection under Federal and State
3 law.

4 (c) Fees.--The department shall establish a registration fee
5 for an application under subsection (a) of not less than \$1,000
6 annually to meet the necessary expenses of the department for
7 the administration of this chapter.

8 (d) Failure to register.--If a temporary health care
9 services agency fails to provide the items required in this
10 section to the department:

11 (1) The department shall immediately suspend or refuse
12 to issue the temporary health care services agency's
13 registration.

14 (2) The temporary health care services agency shall
15 immediately suspend operations in this Commonwealth.

16 (e) Term of registration and voided registration.--A
17 registration issued by the department according to this section
18 shall be effective for a period of one year from the date of its
19 issuance unless:

20 (1) the registration has been revoked or suspended, in
21 accordance with this section; or

22 (2) the temporary health care services agency is sold or
23 ownership or management is transferred, in which case the
24 registration shall be voided, but the new owner or operator
25 of the temporary health care services agency may apply for a
26 new registration.

27 Section 803-A. Conditions of registration.

28 (a) Requirements generally.--A temporary health care
29 services agency:

30 (1) Shall provide to the health care facility to which

1 any temporary health care personnel are supplied
2 documentation that each temporary employee meets all
3 licensing or certification, training and continuing education
4 standards for the position in which the temporary employee
5 will be working.

6 (2) Shall comply with all pertinent requirements
7 relating to the health and other qualifications of personnel
8 employed in health care facilities.

9 (3) May not restrict in any manner the employment
10 opportunities of its employees. This requirement shall also
11 apply to a health care facility.

12 (4) Shall carry medical malpractice insurance to insure
13 against loss, damages or expenses incident to a claim arising
14 out of the death or injury of any person as the result of
15 negligence or malpractice in the provision of health care
16 services by the temporary health care services agency or an
17 employee, agent or contractor of the temporary health care
18 services agency.

19 (5) Shall carry for each employee a dishonesty bond in
20 the amount of \$10,000.

21 (6) Shall maintain insurance coverage for workers'
22 compensation for all health care personnel provided or
23 procured by the temporary health care services agency.

24 (7) Shall file with the Department of Revenue the name
25 and address of the bank, savings bank or savings association
26 in which the temporary health care services agency deposits
27 all employee income tax withholdings or, if the temporary
28 health care services agency purports that the income is not
29 subject to withholding, the name and address of any health
30 care personnel whose income is derived from the placement by

1 the temporary health care services agency.

2 (8) Shall retain all records for 10 calendar years in a
3 manner to allow the records to be immediately available to
4 the department for inspection to determine compliance with
5 this chapter.

6 (9) Shall provide health care facilities with proof of
7 applicable criminal records checks for each temporary
8 employee consistent with their regulatory requirements.

9 (b) Supplemental requirements.--The requirements under
10 subsection (a) may be supplemented by rules or regulations
11 promulgated by the department in accordance with this chapter.

12 (c) Compliance.--Failure of a temporary health care services
13 agency to comply with this section shall subject the temporary
14 health care services agency to revocation or nonrenewal of its
15 registration.

16 Section 804-A. Rates.

17 (a) Maximum rate.--A temporary health care services agency
18 may not bill or receive payments from a health care facility at
19 a rate higher than 150% of the sum of the average rate, plus a
20 factor to incorporate payroll taxes, for the health care
21 facility's location as determined under subsection (c).

22 (b) Determination of average rate.--The average rate shall
23 be determined by the department and reported on an annual basis.
24 A health care facility shall provide to the department
25 information necessary for the department to determine the
26 average rates for applicable regions of this Commonwealth.

27 (c) Standard.--The average rate for health care personnel
28 shall be established for each metropolitan statistical area of
29 the Department of Labor and Industry.

30 (d) Components of maximum rate.--The maximum rate shall

1 include all charges for administrative fees, contract fees or
2 other special charges, in addition to the hourly rate for the
3 health care personnel supplied to a health care facility.

4 (e) Payments by health care facility.--A health care
5 facility that pays for the actual travel and housing costs for
6 health care personnel at the health care facility and that pays
7 these costs to the temporary health care services agency, an
8 employee of the temporary health care services agency or another
9 vendor shall not be considered in violation of the limitation on
10 charges described in this section.

11 (f) Cost reports.--The department shall:

12 (1) Establish a system for each temporary health care
13 services agency to complete and file a cost report annually.

14 (2) Conduct annual audits of each cost report.

15 (g) Publication.--The department shall transmit notice to
16 the Legislative Reference Bureau for publication in the
17 Pennsylvania Bulletin of the maximum rate established in this
18 section.

19 (h) Penalty.--A temporary health care services agency that
20 has violated this section shall be subject to a fine equal to
21 200% of the amount billed or received in excess of the maximum
22 rate permitted under this section.

23 Section 805-A. Oversight.

24 (a) Oversight by department.--The department shall provide
25 oversight of temporary health care services agencies through
26 complaint investigations and other actions necessary to ensure
27 compliance with this chapter.

28 (b) Complaint process.--The department shall establish a
29 system for reporting complaints against a temporary health care
30 services agency or its employees. Complaints may be made by any

1 member of the public.

2 (c) Administrative procedure.--The registration of a
3 temporary health care services agency may not be revoked without
4 a hearing held as a contested case before the department's
5 Bureau of Facility Licensure and Certification. The following
6 apply:

7 (1) If a controlling person has been notified by the
8 department that the temporary health care services agency
9 will not receive an initial registration or that a renewal of
10 that registration has been denied, the controlling person, or
11 a legal representative on behalf of the temporary health care
12 services agency, may request and receive a hearing on the
13 denial.

14 (2) The department may not issue or renew a registration
15 to a temporary health care services agency or a controlling
16 person whose registration was not renewed or was revoked
17 because of noncompliance with this chapter until at least
18 five years have elapsed following the effective date of the
19 nonrenewal or revocation.

20 Section 806-A. Reports.

21 The department shall report annually on the progress in
22 implementing and administering this chapter. Each report shall
23 be submitted to the chairperson and minority chairperson of the
24 Health and Human Services Committee of the Senate and the
25 chairperson and minority chairperson of the Health Committee of
26 the House of Representatives.

27 Section 2. This act shall take effect in 90 days.