

CHAPTER 417**TEMPORARY NURSE AGENCIES****§2131. Temporary nurse agencies**

1. Registration; renewal. A temporary nurse agency shall register with the department and renew the registration 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 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.

[PL 2023, c. 434, §1 (AMD).]

1-A. Verifying certified nursing assistant eligibility. A health care institution, facility or organization, including a temporary nurse agency employing a certified nursing assistant, shall, before hiring a certified nursing assistant, verify that the certified nursing assistant is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers established under section 1812-G with no annotations to prohibit the hiring of that individual according to state and federal regulations.

[PL 2011, c. 257, §14 (AMD).]

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.

[PL 2023, c. 434, §2 (NEW).]

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.

[PL 2023, c. 434, §3 (NEW).]

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; [PL 2023, c. 434, §4 (NEW).]

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; [PL 2023, c. 434, §4 (NEW).]

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; [PL 2023, c. 434, §4 (NEW).]

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; [PL 2023, c. 434, §4 (NEW).]

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 [PL 2023, c. 434, §4 (NEW).]

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. [PL 2023, c. 434, §4 (NEW).]

[PL 2023, c. 434, §4 (NEW).]

2. Exception.

[PL 2023, c. 434, §5 (RP).]

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

[PL 2023, c. 434, §6 (AMD).]

4. Penalty. The following penalties apply to violations of this chapter.

A. A person who operates a temporary nurse agency without registering or who fails to verify the inclusion of a certified nursing assistant on the Maine Registry of Certified Nursing Assistants and Direct Care Workers established under section 1812-G before hiring that certified nursing assistant pursuant to subsection 1-A commits a civil violation for which a fine of not less than \$500 per day but not more than \$10,000 per day may be adjudged. Each day constitutes a separate violation. [PL 2011, c. 257, §15 (AMD).]

B. A person who operates a temporary nurse agency in violation of the employment prohibitions in section 2138 commits a civil violation for which a fine of not less than \$500 per day but not more than \$10,000 per day may be adjudged. Each day constitutes a separate violation. [PL 2009, c. 621, §3 (NEW).]

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. [PL 2023, c. 434, §7 (NEW).]

[PL 2023, c. 434, §7 (AMD).]

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.

[PL 2023, c. 434, §8 (NEW).]

5. Rules. The department may adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 621, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 579, §4 (NEW). PL 2001, c. 494, §§1,2 (AMD). PL 2009, c. 590, §3 (AMD). PL 2009, c. 621, §§2-4 (AMD). PL 2011, c. 257, §§14, 15 (AMD). PL 2023, c. 434, §§1-8 (AMD).

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