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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4873

03/13/2024

Authored by Noor

The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act

1.2 relating to health; modifying the maximum allowable charge for supplemental

1.3 nursing services; prohibiting registered supplemental nursing services agencies

1.4 from being a related organization of an organization in the business of providing

1.5 or procuring temporary employment for independent contractors; amending

1.6 Minnesota Statutes 2022, sections 144A.70, by adding a subdivision; 144A.72,

1.7 subdivision 1; 144A.74.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 144A.70, is amended by adding a subdivision

1.10 to read:

1.11 Subd. 5a. **Related organization.** (a) "Related organization" means a person that is a

1.12 close relative of a supplemental nursing services agency, an affiliate of a supplemental

1.13 nursing services agency, a close relative of an affiliate of a supplemental nursing agency,

1.14 or an affiliate of a close relative of a supplemental nursing agency. As used in this

1.15 subdivision, paragraphs (b) to (d) apply.

1.16 (b) "Affiliate" means a person that directly, or indirectly through one or more

1.17 intermediaries, controls or is controlled by, or is under common control with another person.

1.18 (c) "Close relative" means an individual whose relationship by blood, marriage, or

1.19 adoption is no more remote than first cousin.

1.20 (d) "Control," including the terms "controlling," "controlled by," and "under common

1.21 control with," means the possession, direct or indirect, of the power to direct or cause the

1.22 direction of the management, operations, or policies of a person, whether through the

1.23 ownership of voting securities, by contract, or otherwise.

2.1 Sec. 2. Minnesota Statutes 2022, section 144A.72, subdivision 1, is amended to read:

2.2 Subdivision 1. **Minimum criteria.** (a) The commissioner shall require that, as a condition  
2.3 of registration:

2.4 (1) the supplemental nursing services agency shall document that each temporary  
2.5 employee provided to health care facilities currently meets the minimum licensing, training,  
2.6 and continuing education standards for the position in which the employee will be working;

2.7 (2) the supplemental nursing services agency shall comply with all pertinent requirements  
2.8 relating to the health and other qualifications of personnel employed in health care facilities;

2.9 (3) the supplemental nursing services agency must not restrict in any manner the  
2.10 employment opportunities of its employees;

2.11 (4) the supplemental nursing services agency shall carry medical malpractice insurance  
2.12 to insure against the loss, damage, or expense incident to a claim arising out of the death  
2.13 or injury of any person as the result of negligence or malpractice in the provision of health  
2.14 care services by the supplemental nursing services agency or by any employee of the agency;

2.15 (5) the supplemental nursing services agency shall carry an employee dishonesty bond  
2.16 in the amount of \$10,000;

2.17 (6) the supplemental nursing services agency shall maintain insurance coverage for  
2.18 workers' compensation for all nurses, nursing assistants, nurse aides, and orderlies provided  
2.19 or procured by the agency;

2.20 (7) the supplemental nursing services agency shall file with the commissioner of revenue:  
2.21 (i) the name and address of the bank, savings bank, or savings association in which the  
2.22 supplemental nursing services agency deposits all employee income tax withholdings; and  
2.23 (ii) the name and address of any nurse, nursing assistant, nurse aide, or orderly whose income  
2.24 is derived from placement by the agency, if the agency purports the income is not subject  
2.25 to withholding;

2.26 (8) the supplemental nursing services agency must not, in any contract with any employee  
2.27 or health care facility, require the payment of liquidated damages, employment fees, or  
2.28 other compensation should the employee be hired as a permanent employee of a health care  
2.29 facility;

2.30 (9) the supplemental nursing services agency shall document that each temporary  
2.31 employee provided to health care facilities is an employee of the agency and is not an  
2.32 independent contractor; ~~and~~

3.1 (10) the supplemental nursing services agency shall retain all records for five calendar  
3.2 years. All records of the supplemental nursing services agency must be immediately available  
3.3 to the department; and

3.4 (11) the supplemental nursing services agency must not be a related organization to any  
3.5 person in the business of providing, procuring, or facilitating temporary employment in  
3.6 health care services to independent contractors.

3.7 (b) In order to retain registration, the supplemental nursing services agency must provide  
3.8 services to a health care facility during the year preceding the supplemental nursing services  
3.9 agency's registration renewal date.

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2024.

3.11 Sec. 3. Minnesota Statutes 2022, section 144A.74, is amended to read:

3.12 **144A.74 MAXIMUM CHARGES.**

3.13 A supplemental nursing services agency must not bill or receive payments from a nursing  
3.14 home licensed under this chapter at a rate higher than ~~150~~ 200 percent of the sum of the  
3.15 weighted average wage rate, plus a factor determined by the commissioner to incorporate  
3.16 payroll taxes as defined in section 256R.02, subdivision 37, for the applicable employee  
3.17 classification for the geographic group specified in section 256R.23, subdivision 4. The  
3.18 weighted average wage rates must be determined by the commissioner of human services  
3.19 and reported to the commissioner of health on an annual basis. Wages are defined as hourly  
3.20 rate of pay and shift differential, including weekend shift differential and overtime. Facilities  
3.21 shall provide information necessary to determine weighted average wage rates to the  
3.22 commissioner of human services in a format requested by the commissioner. The maximum  
3.23 rate must include all charges for administrative fees, contract fees, or other special charges  
3.24 in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing  
3.25 home. A nursing home that pays for the actual travel and housing costs for supplemental  
3.26 nursing services agency staff working at the facility and that pays these costs to the employee,  
3.27 the agency, or another vendor, is not violating the limitation on charges described in this  
3.28 section.

3.29 **EFFECTIVE DATE.** This section is effective July 1, 2024.

4.1       Sec. 4. **DIRECTION TO COMMISSIONER OF HEALTH; CONSULTATION**  
4.2 **WITH REGISTERED SUPPLEMENTAL NURSING SERVICES AGENCIES**  
4.3 **REQUIRED.**

4.4       The commissioner of health must take measures to actively engage with registered  
4.5 supplemental nursing services agencies prior to taking any of the following actions governing  
4.6 or substantially affecting supplemental nursing services agencies:

4.7       (1) recommending changes to Minnesota Statutes, sections 144A.70 to 144A.74;

4.8       (2) adopting rules;

4.9       (3) implementing changes to statutes or rules; or

4.10      (4) implementing new or modified policies.