

2022 Regular Session

HOUSE BILL NO. 958

BY REPRESENTATIVE DUSTIN MILLER

HEALTH CARE/PROVIDERS: Provides for licensure and regulation of nurse staffing agencies by the Louisiana Department of Health

1 AN ACT

2 To enact Part II-E of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 40:2120.11 through 2120.24, relative to the licensure and  
4 regulation of nurse staffing agencies by the Louisiana Department of Health; to  
5 provide for definitions; to provide for the licensure and registration of nurse staffing  
6 agencies; to provide for the protection of public rights to health care; to provide for  
7 licensed and certified personnel in healthcare facilities; to provide for applicability  
8 provisions for prospective agencies; to provide for regulations and grounds for  
9 issuance, renewal, and denial of a license; to establish standards for the operation of  
10 nurse staffing agencies; to provide for penalty provisions; to provide for rulemaking  
11 requirements; to provide for fees; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Part II-E of Chapter 11 of Title 40 of the Louisiana Revised Statutes of  
14 1950, comprised of R.S. 40:2120.11 through 2120.24, is hereby enacted to read as follows:

15 PART II-E. LICENSING OF NURSE STAFFING AGENCIES

16 §2120.11. Short title

17 This Part shall be known and may be cited as the "Nurse Staffing Agency  
18 Licensing Law".

1        §2120.12. Purpose

2                The purpose of this Part is to authorize the Louisiana Department of Health  
3        to promulgate and publish rules and regulations to provide for the licensure of nurse  
4        staffing agencies.

5        §2120.13. Definitions

6                As used in this Part, the following terms have the meanings ascribed to them  
7        in this Section:

8                (1) "Certified nurse aide" means an individual who has completed a Nurse  
9        Aide Training and Competency Evaluation Program approved by the state as  
10       meeting the requirements of 42 CFR 483.151 and 483.154 or has been determined  
11       competent as provided in 42 CFR 483.150(a) and (b) and is listed as certified and in  
12       good standing on the state's Certified Nurse Aide Registry.

13               (2) "Department" means the Louisiana Department of Health or any office  
14       or agency thereof designated by the secretary of the department to administer the  
15       provisions of this Part.

16               (3) "Healthcare facility" means any person, partnership, corporation,  
17       unincorporated association, or other legal entity licensed pursuant to R.S. 40:2006  
18       (A)(2) and currently operating or planning to operate within the state.

19               (4) "Licensee" means any nursing agency properly licensed in accordance  
20       with this Part.

21               (5) "Nurse" means a registered nurse as defined in R.S. 37:913 or a licensed  
22       practical nurse as defined in R.S. 37:961.

23               (6) "Nurse staffing agency" means any individual, firm, corporation,  
24       partnership, or other legal entity that employs, assigns, or refers nurses or certified  
25       nurse aides to render healthcare services in a healthcare facility for a fee.

26               (7) "Secretary" means the secretary of the Louisiana Department of Health  
27       or his designee.

1        §2120.14. Licensure required

2                The department shall license nurse staffing agencies in accordance with this  
3        Part. No person, partnership, corporation, unincorporated association, or other legal  
4        entity may establish, operate, maintain, or advertise as a nurse staffing agency in this  
5        state unless the person, partnership, corporation, unincorporated association, or other  
6        legal entity is licensed by the department in accordance with this Part.

7        §2120.15. Application for licensure; fees

8                A. An application to operate a nurse staffing agency shall be made to the  
9        department on forms provided by the department. A separate license shall be  
10       obtained for each location from which a nurse staffing agency is operated unless the  
11       nurse staffing agency is owned and managed by the same entity, person, or persons.

12               B. The application shall contain all of the following information:

13               (1) The name and address of the person, partnership, corporation, or other  
14       entity that is the applicant.

15               (2) If the applicant is a corporation, a copy of its articles of incorporation,  
16       a copy of its current bylaws, and the names and addresses of its officers, directors,  
17       and shareholders owning more than five percent of the corporation's stock.

18               (3) The names and addresses of the person or persons under whose  
19       management or supervision the nurse staffing agency will be operated.

20               (4) A statement of financial solvency.

21               (5) A statement detailing the experience and qualifications of the applicant  
22       to operate a nurse staffing agency.

23               (6) Evidence of compliance with state or federal law relating to workers'  
24       compensation with a minimum coverage in the amount of one million dollars.

25               (7) Evidence of professional liability insurance in an amount sufficient to  
26       provide coverage in accordance with the total amount recoverable for all malpractice  
27       claims as indicated in R.S. 40:1231.2.

1           (8) Any other relevant information the department determines is necessary  
2           to properly evaluate the applicant and application as required by the department by  
3           rule.

4           C. Any person, partnership, corporation, unincorporated association, or other  
5           legal entity currently operating or planning to operate a nurse staffing agency shall  
6           be assessed a nonrefundable fee of six hundred dollars, payable to the department,  
7           at the time an initial licensing application is made to the department and shall be  
8           assessed a nonrefundable fee of six hundred dollars biennially thereafter for renewal  
9           of the license. Any person, partnership, corporation, unincorporated association, or  
10           other legal entity shall be assessed a delinquent fee of one hundred dollars for failure  
11           to timely renew its license; the delinquent fee shall be assessed and shall become due  
12           and payable to the department at 12:01 a.m. on the first day following the expiration  
13           date of the license. These licensing fees are for the initial application and renewal  
14           of a license only and are in addition to any other fees that may be assessed according  
15           to the laws, rules, regulations, and standards that are applicable to a nurse staffing  
16           agency.

17           §2120.16. Issuance of a license

18           Upon receipt and after review of an application for a license in accordance  
19           with this Part, the secretary shall issue a license if it is determined that the applicant  
20           is qualified to operate a nurse staffing agency based upon demonstrated compliance  
21           with this Part. A license issued by the department in accordance with this Section  
22           shall remain effective for a period of two years unless the license is revoked or  
23           suspended pursuant to this Part. When a nurse staffing agency is sold or ownership  
24           is transferred, the transferee shall notify the department and apply for a new license  
25           at least forty-five days prior to the transfer. The transferor shall remain responsible  
26           for the operation of the agency until such time as a license is issued to the transferee.

27           §2120.17. Renewal of a license

28           At least thirty days prior to license expiration, the licensee shall submit an  
29           application which meets the requirements of this Part for renewal of the license. If

1        the application is approved, the license shall be renewed for an additional two-year  
2        period.

3        §2120.18. Grounds for denial of a license

4                An application for a license may be denied for any of the following reasons:

5                (1) Failure to comply with the minimum standards set forth by this Part as  
6        well as any licensing regulations promulgated by the department.

7                (2) Conviction of the applicant of a felony.

8                (3) Insufficient financial or other resources to operate the nurse staffing  
9        agency in accordance with the requirements of this Part and the minimum standards,  
10        rules, and regulations promulgated in this Part.

11                (4) Failure to establish appropriate personnel policies and procedures for  
12        selecting nurses and certified nurse aides for employment, assignment, or referral.

13                (5) Failure to perform criminal history checks as required by R.S. 40:1203.1.

14                (6) Failure to report hours worked by certified nurse aides to the Certified  
15        Nurse Aide Registry.

16        §2120.19. Suspension, revocation, or refusal to issue or renew a license

17                The department may, after appropriate notice and hearing, suspend, revoke,  
18        or refuse to issue or renew any license if the licensee or applicant fails to comply  
19        with this Part or the rules and regulations promulgated by the department in  
20        accordance with this Part.

21        §2120.20. Minimum standards; prohibited actions

22                A. The department, by rule, shall establish minimum standards for the  
23        operation of nurse agencies. Those standards shall include but are not limited to the  
24        following:

25                (1) The maintenance of written policies and procedures.

26                (2) The development of personnel policies, which include a personal  
27        interview, a reference check, and an annual evaluation of each employee or  
28        contracted staff.

1           (3) Licensure application and renewal application procedures and  
2           requirements.

3           (4) Survey and complaint investigations.

4           (5) Denial, revocation, suspension and nonrenewal of licenses, and appeals.

5           (6) Such other standards or regulations that will ensure proper care and  
6           treatment of patients, clients, and persons receiving services.

7           B. Each nurse staffing agency shall have a nurse serving as a manager or  
8           supervisor of all nurses and certified nurse aides.

9           C. Each nurse staffing agency shall ensure that its employees or contracted  
10          staff meet the minimum licensing, training, and orientation standards for which those  
11          employees or contracted staff are licensed or certified.

12          D. A nurse staffing agency shall not employ, assign, or refer for use in a  
13          healthcare facility in this state, a nurse or certified nurse aide unless certified or  
14          licensed in accordance with the applicable provisions of state and federal laws or  
15          regulations. Each certified nurse aide shall comply with all pertinent regulations of  
16          the department relating to the health and other qualifications of personnel employed  
17          in healthcare facilities.

18          E. The department may adopt rules to monitor the usage of nurse staffing  
19          agency services to determine their impact.

20          F.(1) Nurse staffing agencies are prohibited from requiring, as a condition  
21          of employment, assignment, or referral, that their employees or contracted staff  
22          recruit new employees for the nurse staffing agency from among the permanent  
23          employees of the healthcare facility to which the nurse agency employees or  
24          contracted staff have been assigned or referred.

25          (2) The healthcare facility is prohibited from requiring, as a condition of  
26          employment, its employees to recruit nurse staffing agency employees or contracted  
27          staff to become permanent employees at the healthcare facility.

28          G. Nurse staffing agencies are prohibited from offering or providing  
29          financial incentives to their employees or contracted staff for the purpose of inducing

1 permanent employees of healthcare facilities to which they are assigned to become  
2 employed or enter into a contract with the nurse staffing agency.

3 H. Nurse staffing agencies may not contractually obligate any nurse staffing  
4 agency employee or contracted staff nor any provider to any terms restricting the  
5 nurse staffing agency's employee or contracted staff to accept nor any provider's  
6 ability to hire which in any way restricts the nurse staffing agency employee or  
7 contracted staff from accepting employment within his trade with any provider  
8 within the state.

9 §2120.21. Investigations; inspections; orders; civil penalties

10 A. The department may at any time, upon receiving a complaint from any  
11 interested person regarding allegations that a nurse staffing agency is operating  
12 without a valid license issued by the department, investigate any entity, person, or  
13 persons.

14 B. The department may examine the premises of any nurse staffing agency  
15 and may examine and inspect books, payrolls, records, papers, documents, and other  
16 evidence in any survey or investigation. The nurse staffing agency shall cooperate  
17 in any survey or investigation conducted by the department. Failure to cooperate or  
18 produce any documentation for inspection or survey may result in action up to and  
19 including license revocation.

20 C. The department shall assess a nurse staffing agency a survey or  
21 investigation fee not to exceed one thousand dollars for any complaint survey or  
22 investigation conducted by the department at which deficiencies are substantiated.  
23 This survey or inspection fee shall be imposed by the department only after the nurse  
24 staffing agency has completed the administrative process which has upheld the  
25 deficiencies or the time for filing any administrative appeal has expired. The survey  
26 or investigation fee shall not exceed the cost of performing the survey. This fee shall  
27 be in addition to any other sanctions.

1        §2120.22. Operation without a license; penalty

2            A. A nurse staffing agency shall not operate without a license issued by the  
3        department. Any such agency operating without a license shall be guilty of a  
4        misdemeanor and upon conviction shall be fined no less than two hundred fifty  
5        dollars nor more than one thousand dollars. Each day of violation shall constitute  
6        a separate offense. It shall be the responsibility of the department to inform the  
7        appropriate district attorney of the alleged violation to ensure enforcement.

8            B. If a nurse staffing agency is operating without a license issued by the  
9        department, the department may have the authority to issue an immediate cease and  
10       desist order to that agency. Any such agency receiving a cease and desist order from  
11       the department shall immediately cease operations until such time as that agency is  
12       issued a license by the department.

13           C. The department shall seek an injunction in the Nineteenth Judicial District  
14       Court against any agency that receives a cease and desist order from the department  
15       in accordance with Subsection B of this Section and that does not cease operations  
16       immediately. Any such agency against which an injunction is granted shall be liable  
17       to the department for attorney fees, costs, and damages.

18        §2120.23. Implementation

19           A. No nurse staffing agency shall be required to obtain a license in  
20       accordance with this Part until the initial rules, regulations, and licensing standards  
21       are promulgated by the department in accordance with the Administrative Procedure  
22       Act.

23           B. Each agency that meets the definition of nurse staffing agency as defined  
24       in this Part shall submit an initial licensing application and fee to the department  
25       within ninety days of the promulgation of the initial rules, regulations, and licensing  
26       standards. If the agency is not licensed within one hundred eighty days after  
27       submission of its initial licensing application and fee, the agency shall cease  
28       operations until such time as it is licensed as a nurse staffing agency by the  
29       department.



1           §2120.24. Administrative rulemaking  
 2                   The department shall adopt all rules and regulations in accordance with the  
 3           Administrative Procedure Act as necessary for the implementation of the provisions  
 4           of this Part.

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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 958 Engrossed

2022 Regular Session

Dustin Miller

**Abstract:** Creates the "Nurse Staffing Agency Licensing Law".

Proposed law authorizes the La. Dept. of Health to promulgate and publish rules and regulations to provide for the licensure and registration of nurse staffing agencies.

Proposed law authorizes the La. Dept. of Health to protect the public's right to high quality health care by assuring that nurse staffing agencies employ, assign, and refer licensed and certified personnel to healthcare facilities.

Proposed law defines "certified nurse aide", "department", "healthcare facility", "licensee", "nurse", "nurse staffing agency", and "secretary".

Proposed law provides requirements for licensure and applicability provisions for prospective agencies.

Proposed law establishes regulations, processes, and grounds for issuance, renewal, and denial of a license.

Proposed law requires the department to establish minimum standards for the operation of nurse staffing agencies.

Proposed law provides that the department may at any time and shall, upon receiving a complaint from any interested person, investigate any entity, person, or persons licensed or applying for a license.

Proposed law gives the department authority to investigate any entity, person, or persons who operate or advertise a nurse staffing agency without being licensed in accordance with proposed law.

Proposed law gives the department authority to examine certain premises when the investigation or survey of a nurse staffing agency is required by proposed law.

Proposed law requires the department to adopt all rules and regulations in accordance with the Administrative Procedure Act as necessary for the implementation of proposed law and includes additional provisions for the implementation of proposed law.

Proposed law establishes fee provisions for any person, partnership, corporation, unincorporated association, or legal entity operating or planning to operate a nurse staffing agency, specifically regarding licensure and renewal.

Proposed law adds penalty provisions for the unlicensed operation of a nurse staffing agency.

(Adds R.S. 40:2120.11-2120.24)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Define "certified nurse aide".
2. Establish fee provisions for any person, partnership, corporation, unincorporated association, or legal entity operating or planning to operate a nurse staffing agency, specifically regarding licensure and renewal.
3. Change the duration of effectiveness for licensure from one year to two years.
4. Provide additional information regarding the department's authority and abilities when conducting a survey or investigation regarding allegations made against a nurse staffing agency.
5. Expand minimum standards for the operation of a nurse staffing agency.
6. Add penalty provisions for the unlicensed operation of a nurse staffing agency.
7. Add provisions for the implementation of the proposed law.
8. Change application for renewal requirements from ninety days to thirty days.
9. Delete the provision relating to the secretary's authority to examine certain premises when an investigation or survey is required by the proposed law and give such authority to the department.
10. Make technical corrections.