

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 2120.22, 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; 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 2120.22, 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 and
4 registration of nurse staffing agencies and to protect the public's right to high quality
5 health care by assuring that nurse staffing agencies employ, assign, and refer licensed
6 and certified personnel to healthcare facilities.

7 §2120.13. Definitions

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

10 (1) "Department" means the Louisiana Department of Health or any office
11 or agency thereof designated by the secretary of the department to administer the
12 provisions of this Part.

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

16 (3) "Licensee" means any nursing agency properly licensed in accordance
17 with this Part.

18 (4) "Nurse" means a registered nurse as defined in R.S. 37:913 or a licensed
19 practical nurse as defined in R.S. 37:961.

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

23 (6) "Secretary" means the secretary of the Louisiana Department of Health
24 or his designee.

25 §2120.14. Licensure required

26 The department shall license nurse staffing agencies in accordance with this
27 Part for the protection of the health, welfare, and safety of patients and residents. No
28 person may establish, operate, maintain, or advertise as a nurse staffing agency in
29 this state unless the person is licensed by the department in accordance with this Part.

1 §2120.15. Application for licensure

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

6 The application shall contain all of the following information:

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

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

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

14 (4) A statement of financial solvency.

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

17 (6) Evidence of compliance with state or federal law relating to workers'
18 compensation.

19 (7) Evidence of professional liability insurance.

20 (8) Any other relevant information the department determines is necessary
21 to properly evaluate the applicant and application as required by the department by
22 rule.

23 §2120.16. Issuance of a license

24 Upon receipt and after review of an application for a license in accordance
25 with this Part, the secretary shall issue a license if it is determined that the applicant
26 is qualified to operate a nurse staffing agency based upon demonstrated compliance
27 with this Part. A license issued by the department in accordance with this Section
28 shall remain effective for a period of one year unless the license is revoked or
29 suspended pursuant to this Part. When a nurse staffing agency is sold or ownership

1 is transferred, the transferee shall notify the department and apply for a new license
2 at least forty-five days prior to the transfer. The transferor shall remain responsible
3 for the operation of the agency until such time as a license is issued to the transferee.

4 §2120.17. Renewal of a license

5 At least ninety days prior to license expiration, the licensee shall submit an
6 application which meets the requirements of this Part for renewal of the license. If
7 the application is approved, the license shall be renewed for an additional one-year
8 period.

9 §2120.18. Grounds for denial of a license

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

11 (1) Failure to comply with the minimum standards set forth by this Part or
12 the rules provided in this Part.

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

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

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

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

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

22 §2120.19. Suspension, revocation, or refusal to issue or renew a license

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

1 §2120.20. Minimum standards; prohibited actions

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

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

6 (2) The development of personnel policies, which include a personal
7 interview, a reference check, and an annual evaluation of each employee.

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

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

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

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

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

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

1 G. Nurse staffing agencies are prohibited from offering or providing
2 financial incentives to their employees or contracted staff for the purpose of inducing
3 permanent employees of healthcare facilities to which they are assigned to become
4 employed or enter into a contract with the nurse staffing agency.

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

11 §2120.21. Investigations; inspections; orders; civil penalties

12 A. The department may at any time and shall, upon receiving a complaint
13 from any interested person, investigate any entity, person, or persons licensed or
14 applying for a license in accordance with this Part. The department shall investigate
15 any entity, person, or persons who operates or advertises a nurse staffing agency
16 without being licensed in accordance with this Part.

17 B. The secretary may examine the premises of any nurse staffing agency,
18 may compel by subpoena, for examination or inspection, the attendance and
19 testimony of witnesses, and the production of books, payrolls, records, papers, and
20 other evidence in any investigation or hearing, and may administer oaths or
21 affirmations to witnesses.

22 C. After appropriate notice and hearing, and if supported by the evidence,
23 the department may issue and cause to be served on any person an order to cease and
24 desist from violation of this Part and to take any further action that is reasonable to
25 eliminate the effect of the violation.

26 D. Whenever it appears that any person has violated a valid order of the
27 department issued in accordance with this Part, the secretary may commence an
28 action and obtain from the court an order directing the person to obey the order of
29 the department or be subject to punishment for contempt of court.

1 E. The department may petition the court for an order enjoining any violation
 2 of this Part.
 3 §2120.22. Administrative rulemaking
 4 The department shall adopt all rules and regulations in accordance with the
 5 Administrative Procedure Act as necessary for the implementation of the provisions
 6 of this Part.

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)]

HB 958 Original

2022 Regular Session

Dustin Miller

Abstract: Establishes 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 "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 provisions for applications for licensure.

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

Proposed law provides that the secretary may examine the premises of any nurse staffing agency, may compel by subpoena, for examination or inspection, the attendance and testimony of witnesses and the production of books, payrolls, and other evidence in any investigation or hearing, and may administer oaths or affirmations to witnesses.

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

(Adds R.S. 40:2120.11-2120.22)