

ASSEMBLY, No. 204

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman WEINBERG and Assemblyman GREEN

1 AN ACT providing for the licensure of medical temporary employment
2 agencies and supplementing Title 26 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Agency" means a medical temporary employment agency.

9 "Commissioner" means the Commissioner of Health.

10 "Health care facility" means a health care facility as defined in
11 section 2 of P.L.1971, c.136 (C.26:2H-2).

12 "Health care service" means a preventive, diagnostic or therapeutic
13 health service provided in the recipient's residence, or to a patient in
14 a health care facility under a contractual agreement between the
15 facility and a medical temporary employment agency, including, but
16 not limited to, nursing, nutritional and personal care services and
17 physical, speech, occupational, respiratory, intravenous and related
18 therapies.

19 "Medical temporary employment agency" means a person, business
20 or nonprofit entity who arranges or provides one or more health care
21 services, or who is engaged in the business of procuring or offering to
22 procure employment for persons to provide one or more health care
23 services, where a fee is exacted, charged or received directly or
24 indirectly for procuring or offering to procure that employment.

25

26 2. a. A person shall not either directly or indirectly open, conduct
27 or maintain, or perform any of the functions of, an agency without first
28 obtaining a license issued by the commissioner pursuant to this act;
29 however, a person operating an agency on the date of enactment of
30 this act shall have one year from the date of enactment of this act to
31 obtain a license.

32 b. A license issued pursuant to this act shall be valid for a period
33 of two years unless revoked by the commissioner.

34 c. In the event of the loss, defacement or destruction of a license
35 issued pursuant to this act, the licensee shall notify the commissioner

1 in writing no later than 10 days after the licensee becomes aware of
2 that event.

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4 3. The provisions of this act shall not apply to:

5 a. A physician, dentist, registered nurse, physical therapist,
6 occupational therapist, speech therapist, social worker or other health
7 care professional as determined by the commissioner who provides
8 health care services as an independent practitioner;

9 b. A person who provides health care services exclusively under a
10 program which is operated or regulated by State government and
11 which includes required minimum standards for the provision of health
12 care services under the program; and

13 c. A home health care agency licensed pursuant to P.L.1971, c.136
14 (C.26:2H-1 et seq.).

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16 4. a. An application for licensure pursuant to this act shall be made
17 in writing to the commissioner according to rules and regulations
18 established by the commissioner, and shall, at a minimum, state the full
19 name and business address of the applicant.

20 The applicant shall notify the commissioner in writing of any
21 changes in the information contained in the application for licensure,
22 or of any additional information that is relevant to the application, no
23 later than 10 business days after the change becomes effective or the
24 additional information becomes available to the applicant, as the case
25 may be.

26 b. The commissioner may charge a nonrefundable fee to be
27 submitted by each applicant for a license, or a renewal thereof, in an
28 amount to be determined by the commissioner, but not to exceed
29 \$1,000; except that the commissioner may increase the amount of this
30 fee on an annual basis as he deems necessary to meet the costs of
31 carrying out the provisions of this act.

32 c. An applicant for licensure shall file with the commissioner a
33 statement as to whether the applicant has been convicted of a crime,
34 and shall furnish such additional information about the applicant and
35 other persons associated with the medical temporary employment
36 agency for the operation of which the applicant is seeking a license, as
37 may be required by the commissioner.

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39 5. a. The commissioner may refuse to issue, suspend or revoke a
40 license to operate an agency based upon a finding that the applicant or
41 licensee, as the case may be, has:

42 (1) obtained a license through fraud, deception or
43 misrepresentation;

44 (2) engaged in repeated acts of negligence, malpractice or
45 incompetence;

46 (3) exhibited professional or occupational misconduct;

1 (4) been convicted of a crime which, in the determination of the
2 commissioner, reflects adversely on the person's ability to operate an
3 agency;

4 (5) had his authority to directly or indirectly open, conduct or
5 maintain or perform any of the functions of an agency revoked or
6 suspended by another state or other entity;

7 (6) directed an employee of that agency to perform duties for
8 which that employee is not qualified under this or another act; or

9 (7) failed to comply with, or violated, the provisions of this act or
10 any rules or regulations adopted pursuant thereto.

11 b. The commissioner shall not refuse to issue, suspend or revoke
12 a license except upon reasonable notice to, and opportunity to be
13 heard by, the applicant or licensee, as the case may be.

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15 6. a. An agency, no later than the 90th day after the end of its
16 fiscal year and annually thereafter, shall file a report with the
17 commissioner which includes the following information:

18 (1) The name and address of the operator of the agency;

19 (2) If the agency is a partnership, the name and address of each
20 partner; and

21 (3) If the agency is a corporation, the name and address of each
22 officer and the principal shareholder or controlling person of the
23 corporation. In addition, the agency shall furnish to the commissioner
24 such other reports or information as the commissioner may require
25 from time to time in order to effectuate the purposes of this act.

26 b. The commissioner may, by regulation, establish requirements for
27 a uniform system of reports by, and audits of, agencies with respect to
28 the quality of the health care services which they provide.

29 c. The commissioner shall at least annually, and without provision
30 of advance notice, inspect the premises, operation and services of an
31 agency to determine its compliance with the provisions of this act and
32 the rules and regulations adopted pursuant thereto.

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34 7. a. A person who violates a provision of this act or any rule or
35 regulation adopted pursuant thereto, as determined by the
36 commissioner, is liable to a civil penalty for each offense in an amount
37 to be determined by the commissioner, to be collected and enforced by
38 summary proceedings pursuant to "the penalty enforcement law,"
39 N.J.S.2A:58-1 et seq. If the violation is of a continuing nature, each
40 day during which it continues shall constitute a separate offense.

41 b. The operator of an agency who arranges for an employee of that
42 agency to perform duties for which that employee is not qualified
43 under this or another act is liable to a civil penalty for each offense in
44 an amount to be determined by the commissioner, to be collected and
45 enforced by summary proceedings pursuant to "the penalty
46 enforcement law," N.J.S.2A:58-1 et seq.

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3 Transfers licensure of medical temporary employment agencies from

4 Division of Consumer Affairs to DOH.