

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia  
Official Code*

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To require nurse staffing agencies to be licensed by the Department of Health, to provide for procedures and standards for licensing nurse staffing agencies, to require nurse staffing agencies to submit pertinent information to the Department of Health, to require nurse staffing agencies to adopt operational procedures, verify the credentials of nursing personnel they provide or refer, and report to the Board of Nursing or the Department of Health conditions of unfitness to practice of personnel they provide or refer, to authorize the Department of Health to conduct inspections of nurse staffing agencies, to authorize the Mayor to issue regulations to implement the provisions of this act, and to provide penalties for violations of this act or regulations promulgated pursuant to this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nurse Staffing Agency Act of 2003".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Board" means the Board of Nursing established by section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04).

(2) "Change of ownership" means:

(A) In the case of an unincorporated sole proprietorship, transfer of title and property to another party;

(B) In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law; and

(C) In the case of a corporation, the merger of the existing corporation into another corporation, or the consolidation of 2 or more corporations resulting in the creation of a new corporation, but not the merger of another corporation into the existing corporation nor the mere transfer of corporate stock.

(3) "Client" means a health care facility or agency, or an individual, that enters into an agreement or a contract with a nurse staffing agency for the provision or referral of

nursing personnel, Home Health Aides, or Personal Care Aides.

(4) "Department" means the Department of Health.

(5) "Health care facility" or "health care agency" means any entity providing health care services that is defined or designated as a "facility" or "agency" pursuant to section 2(c) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(c)). The term "health care facility" or "health care agency" includes hospitals, nursing homes, hospices, community residence facilities, maternity centers, ambulatory surgical facilities, renal dialysis facilities, and home care agencies.

(6) "Home Health Aide" means any individual who is qualified and authorized to perform home health aide services in accordance with Chapter 51 of Title 29 of the District of Columbia Municipal Regulations.

(7) "Nurse staffing agency" means any person, firm, corporation, partnership, or other business entity engaged in the business of providing or referring nursing personnel, to a health care facility or agency, or to an individual, for the purpose of rendering temporary nursing services within the District of Columbia. The term "nurse staffing agency" does not include:

(A) A nurse staffing program operated by a health care facility solely for the purpose of procuring or furnishing temporary or permanent nursing personnel for employment at that health care facility;

(B) An entity operating solely as a home care agency, as defined by section 2(a)(7) of the Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501(a)(7)); or

(C) Any nursing personnel providing or referring their own services to a health care facility or agency, or to an individual, without the direct or indirect assistance of a nurse staffing agency.

(8) "Nursing personnel" means any individual who is licensed by the District of Columbia Board of Nursing as a Licensed Practical Nurse or as a Registered Nurse, or any individual who is certified as a Certified Nurse Aide in accordance with Chapter 32 of Title 29 of the District of Columbia Municipal Regulations.

(9) "Personal Care Aide" means any individual who is qualified and authorized to perform personal care services in accordance with Chapter 50 of Title 29 of the District of Columbia Municipal Regulations.

(10) "Responsible party" means the employee or other affiliate of a nurse staffing agency who directs the nurse staffing agency's day-to-day nurse staffing operation.

### Sec. 3. License required.

A nurse staffing agency shall be licensed by the Department before providing or referring any nursing personnel, Home Health Aides, or Personal Care Aides to a health care facility or

agency, or to an individual, for the purpose of rendering temporary nursing services or related aide services within the District of Columbia.

**Sec. 4. Application for initial license.**

A nurse staffing agency shall submit to the Department, as part of the agency's initial application for licensure:

- (1) The business name of the agency;
- (2) The addresses of the agency's registered business office, operations headquarters, and District of Columbia operations headquarters;
- (3) The telephone numbers of all offices listed in paragraph (2) of this subsection;
- (4) If the agency is a corporate entity, the entity's Certificate of Good Standing as a corporation;
- (5) The name of the agency's responsible party;
- (6) Any other information necessary to ensure compliance with the provisions of this act, as established by regulation; and
- (7) The initial licensure fee as established by regulation.

**Sec. 5. Expiration of license.**

A license issued by the Department pursuant to this act shall expire one year from the date of initial issuance or most recent renewal, unless it is sooner terminated or renewed.

**Sec. 6. License renewal; failure to renew.**

(a) A nurse staffing agency may obtain renewal of its license from the Department if the nurse staffing agency:

- (1) Meets all licensing requirements as established by this act and by regulations promulgated pursuant to this act; and
- (2) Submits to the Department the renewal licensure fee as established by regulation.

(b) If a nurse staffing agency fails to obtain renewal of its license, the nurse staffing agency shall, on or before the license expiration date, immediately stop providing and referring nursing personnel, Home Health Aides, and Personal Care Aides to health care facilities, health care agencies, and individuals.

**Sec. 7. Denial, suspension, or revocation of license.**

The Department may deny, suspend, revoke, or refuse to renew a license for violation of any provision of this act or of the regulations promulgated pursuant to this act.

Sec. 8. Provisional and restricted licenses.

(a) As an alternative to denial, suspension, revocation, or non-renewal of a license, the Department may:

(1) Issue a provisional license if the nurse staffing agency is taking appropriate ameliorative action in accordance with a mutually-agreed-upon timetable; or

(2) Issue a restricted license that prohibits the nurse staffing agency from accepting new clients or delivering certain specified services.

(b) The Department may issue a provisional license to a new nurse staffing agency to afford the Department time to compile and evaluate evidence pertaining to whether the new agency is capable of complying with the provisions of this act, regulations promulgated pursuant to this act, and other applicable law.

(c) A provisional license may be issued for a period not exceeding 90 days, and may be renewed not more than once.

Sec. 9. Publication of license status.

The Department may make available to the public a roster of all nurse staffing agencies that are or have been licensed by it. The information published may include the name, address, and telephone number of the agency, as well as the agency's current licensure status.

Sec. 10. Change in ownership or operation.

A nurse staffing agency shall notify the Department of any change in ownership, or in business name, address, telephone number, or responsible party, as required by section 4, no later than 30 days after the change.

Sec. 11. Verification of credentials of nursing personnel.

(a) Before initially providing or referring any nursing personnel to a health care facility or agency, or to an individual, for the purpose of rendering temporary nursing services within the District of Columbia, a nurse staffing agency shall:

(1) If the nursing personnel is a Licensed Practical Nurse or a Registered Nurse, obtain verification from the Board of Nursing that the nursing personnel is currently licensed;

(2) If the nursing personnel is a Certified Nurse Aide, obtain verification from the Department that the nursing personnel is currently certified and is not listed on the Nurse Aide Abuse Registry; and

(3) Compare the information obtained pursuant to paragraphs (1) or (2) of this subsection with a government-issued photographic identification document furnished by the nursing personnel, and ascertain that the information refers to that nursing personnel.

(b) On or before the date on which nursing personnel provided or referred by a nurse staffing agency must obtain renewal of his or her license or certification to remain licensed or certified, the nurse staffing agency shall verify that the nursing personnel provided or referred has

obtained such renewal by obtaining verification of that fact from the Board of Nursing for a Licensed Practical Nurse and Registered Nurse, and from the Department for a Certified Nurse Aide.

(c) A nurse staffing agency shall create and retain written documentation of the verification processes performed pursuant to subsections (a) and (b) of this section.

Sec. 12. Verification of credentials of aides.

Before initially providing or referring a Home Health Aide or a Personal Care Aide to a health care facility or agency, or to an individual, for the purpose of rendering temporary home health or personal care services within the District of Columbia, a nurse staffing agency shall verify and document that the individual Home Health Aide or Personal Care Aide provided or referred has received the necessary education and training for that position, as required by law.

Sec. 13. Services by unauthorized personnel prohibited.

A nurse staffing agency shall not knowingly provide or refer nursing personnel to a health care facility or agency, or to an individual, for the purpose of rendering temporary nursing services within the District of Columbia, if the nursing personnel being provided or referred is not authorized to provide services as a Licensed Practical Nurse or as a Registered Nurse in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), or is not authorized to provide services as a Certified Nurse Aide in accordance with Chapter 32 of Title 29 of the District of Columbia Municipal Regulations.

Sec. 14. Disciplinary reporting requirements.

(a) If a nurse staffing agency knows of an action taken by, or of a condition affecting the fitness to practice of, a Licensed Practical Nurse or a Registered Nurse provided or referred by that agency that might be grounds for enforcement or disciplinary action under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), the agency shall report the action or condition to the Board, with the exception that an agency is not required under this section to make a report that would be in violation of any federal or District of Columbia law concerning the confidentiality of alcohol and drug abuse treatment records.

(b) If a nurse staffing agency knows of an action taken by a Certified Nurse Aide provided or referred by that agency that might be grounds for listing that individual on the Nurse Aide Abuse Registry pursuant to Chapter 32 of Title 29 of the District of Columbia Municipal Regulations, the agency shall report the action to the Department.

Sec. 15. Operational procedures.

A nurse staffing agency shall develop, document, and implement procedures for:

- (1) Selecting nursing personnel to be provided or referred by the agency;
- (2) Verifying and documenting the credentials of nursing personnel to be provided or referred by the agency;
- (3) Verifying employment references furnished to the agency by nursing personnel;
- (4) Assessing, verifying, and documenting the clinical experience and competency of nursing personnel before providing or referring them;
- (5) Selecting persons to be provided or referred as Home Health Aides or Personal Care Aides, if the agency engages in providing or referring those kinds of personnel;
- (6) Verifying and documenting the education and training of Home Health Aides or Personal Care Aides, if the agency engages in providing or referring those kinds of personnel;
- (7) Tracking, responding to, and acting on complaints;
- (8) Reporting to the Board an action taken by, or a condition affecting the fitness to practice of, a Licensed Practical Nurse or Registered Nurse provided or referred by the agency that might be grounds for enforcement or disciplinary action under the District of Columbia Health Occupations Revision Act, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), and reporting to the Department an action taken by a Certified Nurse Aide provided or referred by the agency that might be grounds for listing the individual on the Nurse Aide Abuse Registry;
- (9) Verifying and documenting that nursing personnel, Home Health Aides, and Personal Care Aides provided or referred by the agency are in satisfactory health, and have received all health testing and immunizations recommended by the Centers for Disease Control and Prevention, or otherwise required by law or requested by the client, before being provided or referred to a health care facility or agency, or to an individual; and
- (10) Verifying and documenting that nursing personnel, Home Health Aides, and Personal Care Aides provided or referred by the agency have satisfactorily completed all drug screening and all background checks required by law, including the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551 *et seq.*), and Chapter 47 of Title 22 of the District of Columbia Municipal Regulations, or requested by the client, before being referred to a health care facility or agency, or to an individual.

Sec. 16. Inspections and enforcement.

(a) To verify compliance with this act or with regulations promulgated pursuant to this act, the Department is authorized to conduct inspections of a nurse staffing agency's offices and operations, and to obtain records and other documentation from a nurse staffing agency.

(b) In the course of conducting an inspection of a nurse staffing agency, the Department shall investigate:

(1) Whether all of the nursing personnel provided or referred by the agency to health care facilities or agencies, or to individuals, for the purpose of rendering temporary nursing services within the District of Columbia are currently licensed by the Board or certified by the Department, as required; and

(2) Whether the nurse staffing agency has developed, documented, and implemented the procedures required by section 15.

(c) If the Department ascertains that any of the nursing personnel provided or referred by a nurse staffing agency are not licensed or certified, as required, or that the agency has not developed, documented, and implemented the procedures required by section 15, the Department shall take such corrective or enforcement action authorized by this act or by regulations promulgated pursuant to this act as it deems appropriate.

**Sec. 17. Rules.**

The Mayor shall issue rules to implement the provisions of this act, including the establishment of:

- (1) Fees;
- (2) Procedures for license application, issuance, and renewal;
- (3) Procedures for regulation of nurse staffing agencies located outside the District of Columbia;
- (4) Requirements for maintenance of documentation and for submission of documentation to the Department;
- (5) Minimum standards for operation and continued licensure of nurse staffing agencies; and
- (6) Enforcement and hearing procedures.

**Sec. 18. Sanctions.**

Civil fines, penalties, and related costs may be imposed against a nurse staffing agency for the violation of any provision of this act, of any regulation promulgated pursuant to this act, or of any other applicable District of Columbia or federal law. Procedures for adjudication and enforcement, and applicable fines, penalties, and costs, shall be those established by or pursuant to Titles I through III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 through 2-1803.03).

**Sec. 19. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Chief Financial Officer dated October 24, 2003 as the fiscal impact statement required by section 602(c)(3) of the District of

**ENROLLED ORIGINAL**

Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 20. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia