

ONE HUNDRED EIGHTH LEGISLATURE - FIRST SESSION - 2023
COMMITTEE STATEMENT (CORRECTED)
LB335

Hearing Date: Monday February 13, 2023
Committee On: Business and Labor
Introducer: Halloran
One Liner: Adopt the Health Care Staffing Agency Registration Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

| | | |
|----------------------------|---|---|
| Aye: | 4 | Senators Halloran, Hansen, B., Ibach, Riepe |
| Nay: | 2 | Senators Hunt, McKinney |
| Absent: | 1 | Senator Blood |
| Present Not Voting: | | |

Testimony:

Proponents:

Senator Steve Halloran
Jalene Carpenter
Andy Hale
Korby Gilbertson
Katie Thurber

Representing:

District 33
Nebraska Health Care Association
Nebraska Hospital Association
Nebraska Health Care Association
Nebraska Department of Labor

Opponents:

Joshua Norton
Jenna Berg
Stephan Pedersen
Jake Walker
Seth Moen

Representing:

Koley Jessen
Fusion Medical Staffing
Medical Solutions
Self
LRS Healthcare, Atlas MedStaff, Maurel Medicaid, Rock
Medicaid
Shift Key

Mary Vaggalis

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB335 would create the Health Care Staffing Agency Registration Act. Administered by the Department of Labor, the Health Care Staffing Agency Registration Act would require all Health Care Staffing Agencies to register annually with the Department when operating in the state of Nebraska.

The Health Care Staffing Agency Registration Act would accomplish the following:

- Requires staffing agencies to register annually with the Department;
- Requires the Department to develop a database accessible to the public on its website, to include:
 - Basic information on each agency
 - The average amount charged for each category of staff members
 - The average amount paid to staff members in each category
- Requires staffing agencies to remit an annual fee;
- Requires staffing agencies to provide proof of insurance;
- Requires staffing agencies to maintain documentation that a staff member meets the minimum licensing, certification, training, and health requirements for the staff member's position in the health care facility or service;
- Prohibits an agency from restricting the employment opportunities of a staff member by charging a fee or including a non-compete clause; and
- Outlines provisions for violations of the Act.

Section 1: Identifies the Health Care Staffing Agency Registration Act.

Section 2: Definitions section.

Section 3: Requires a health care staffing agency ("agency") to register annually with NDOL. Restricts agencies from enforcing noncompete clauses in their contracts with health care entities and staff workers. Agencies register and renew annually for each location operating within the state, paying an annual registration fee of one thousand dollars. Registration renewals must be made at least sixty days prior to the expiration of the then-current registration period. The department of labor provides each approved agency location with a certificate of registration. The department also remits funds to the State Treasurer for credit to the General Fund. If an agency is denied registration, the commissioner issues notice of denial and the agency may file an appeal. Appeal process governed by Administrative Procedure Act.

Section 4: Identifies agency's requirements to maintain compliance with the act. Such as: complying with any applicable health requirements and qualifications of personnel providing services in a healthcare facility or service; documenting compliance that staff meet minimum requirements of licensing, certification, training, and health requirements and the continuing education standards; maintaining a record of information and/or service records of each staff member consisting of any required documentation for external parties/regulators; maintaining required professional and general liability insurance coverage; submitting quarterly reports by if contracting with Medicare/Medicaid health care entities; providing proof of insurance, authorized to do business in Nebraska; proving workers' compensation insurance coverage or appropriate waiver to not provide this coverage; and of the business, including the employer's industrial classification code or products/services provided. Any agency no longer operating as an agency within the state must inform the department and its disposition of all files and records relating to its agency business.

Section 5: Restricts agencies from employment opportunities of a staff member by charging a fee or including a non-compete clause in any contract. Requires payment of liquidated damages, employment fees, or other compensation if a staff member is subsequently hired as permanent employee of the healthcare facility or service. Any contract that violates this section shall be unenforceable in court.

Section 6: States failure to comply with this act may result in civil penalties or revocation of an agency's registration for one year. Identifies the process of the commissioner's issuance of citations and the agency's appeal process. In any civil action to enforce this act, the commissioner and the state may be represented by any qualified attorney employed by the commissioner for this purpose or by the Attorney General's office.

Section 7: Requires the creation of public reports of complaints. Provides for administrative powers given to the commissioner to conduct investigations or audits.

Section 8: Requires the department to create a database of healthcare staffing agencies that are registered under the Act and made public on its website.

Section 9: Allows the department to adopt and promulgate rules and regulations to carry out this act.

Section 10: Amends Neb. Rev. Stat. § 81-401(10) granting authority for the department to administer and enforce all provisions of this act.

Explanation of amendments:

- More strictly defines which staff workers would be covered under the Act to those who are providing direct services or nursing services to consumers of a health care entity
- Removes reference to other services such as food service, janitorial services, or administrative services
- Limits reporting to those staff workers who are providing services in Nebraska
- Increases the registration fee from \$500 to \$1,000 to better cover the actual cost of operating the registration
- Reduces the amount of information registrants must provide to the Department of Labor
- Expands compliance authority by requiring the Labor Commissioner to conduct random audits.
- Grants the Department of Labor rule-making authority to carry out the act

Merv Riepe, Chairperson