

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-1013.01 Brita Darling x2241

SENATE BILL 22-210

SENATE SPONSORSHIP

Zenzinger and Cooke,

HOUSE SPONSORSHIP

Lontine,

Health & Human Services
Finance

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF SUPPLEMENTAL HEALTH-CARE**
102 **STAFFING AGENCIES BY THE DEPARTMENT OF PUBLIC HEALTH**
103 **AND ENVIRONMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the department of public health and environment (department) to license supplemental health-care staffing agencies (staffing agencies) that employ nurses, nurse aids, physical and occupational therapists, and physical therapist and occupational therapy assistants (health-care workers). A staffing agency is defined as an entity

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

that employs health-care workers and, for a fee, assigns them to temporary placements in nursing care facilities or assisted living residences (health-care facilities) on a temporary basis for a fee. The bill differentiates a staffing agency from a health-care worker platform where health-care workers can be listed for hire by a health-care facility.

The bill includes qualifications for a license; criteria for applying for a license and the related fee; and provisions for the issuance, renewal, suspension, or revocation of the license.

On and after April 1, 2023, a person operating an unlicensed staffing agency is guilty of a civil infraction and is subject to a fine and may be subject to civil penalties.

The bill specifies minimum standards for staffing agencies as established by the state board of health (state board) by rule. In part, the minimum standards:

- Require that a staffing agency maintain professional liability insurance, workers' compensation insurance, and a surety bond; and
- Prohibit a staffing agency from restricting employment opportunities of its health-care worker employees, including a prohibition against requiring liquidated damages, employment fees, or other compensation from health-care workers, if the staffing agency employee is hired as a permanent employee by the health-care facility.

A staffing agency shall check the credentials of health-care worker employees and require a background check and a check of the Colorado adult protective services (CAPS) database for employees.

The bill requires each staffing agency to report quarterly to the department concerning the average amount charged for services to health-care facilities and the average amount paid for those services. A staffing agency that fails to report is subject to civil fines and suspension or nonrenewal of its license.

By December 31, 2023, the department shall submit a report to certain committees of the general assembly and to the governor concerning the department's recommendations for caps or other limitations on service rates and amounts charged to health-care facilities for services provided by a staffing agency's health-care workers. In formulating its recommendations, the department shall conduct a stakeholder process with affected providers and agencies.

The bill requires the department to maintain a current list of licensed staffing agencies and make the list publicly available on the department's website.

The bill creates a cash fund for licensing fees and penalties.

1 MANAGEMENT OR POLICIES OF A SUPPLEMENTAL HEALTH-CARE STAFFING
2 AGENCY; OR

3 (b) AN INDIVIDUAL WHO, DIRECTLY OR INDIRECTLY, BENEFICIALLY
4 OWNS AN INTEREST IN A CORPORATION, PARTNERSHIP, OR OTHER BUSINESS
5 ASSOCIATION THAT IS A CONTROLLING PERSON.

6 (3) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
7 PUBLIC HEALTH AND ENVIRONMENT.

8 (4) "FUND" MEANS THE SUPPLEMENTAL HEALTH-CARE STAFFING
9 AGENCY CASH FUND CREATED IN SECTION 25-27.3- 112.

10 (5) "HEALTH-CARE FACILITY" MEANS A HEALTH-CARE FACILITY
11 LICENSED BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1)(a).

12 (6) "HEALTH-CARE WORKER" MEANS A NURSE OR CERTIFIED NURSE
13 AIDE.

14 (7) "HEALTH-CARE WORKER PLATFORM" OR "PLATFORM" MEANS
15 ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR ASSOCIATION THAT
16 MAINTAINS A SYSTEM OR TECHNOLOGY THAT PROVIDES A MEDIA OR
17 INTERNET PLATFORM FOR A HEALTH-CARE WORKER TO BE LISTED AND
18 IDENTIFIED AS AVAILABLE FOR HIRE BY HEALTH-CARE FACILITIES SEEKING
19 HEALTH-CARE WORKERS. UNDER A PLATFORM, THE HEALTH-CARE
20 FACILITY SETS THE HOURLY RATES AND OTHER TERMS OF HIRE AND THE
21 HEALTH-CARE WORKER, AS AN INDEPENDENT CONTRACTOR AND NOT AS
22 AN EMPLOYEE OR AGENT OF THE ENTITY THAT MAINTAINS THE PLATFORM,
23 DECIDES WHETHER TO AGREE TO THE HOURLY RATES AND OTHER TERMS
24 OF HIRE.

25 (8) "LICENSEE" MEANS A SUPPLEMENTAL HEALTH-CARE STAFFING
26 AGENCY LICENSED PURSUANT TO THIS ARTICLE 27.3.

27 (9) "NURSE" MEANS A PRACTICAL NURSE OR A REGISTERED NURSE,

1 AS DEFINED IN SECTION 12-255-104 (7) AND (11), RESPECTIVELY.

2 (10) "PERSON" MEANS AN INDIVIDUAL, FIRM, CORPORATION,
3 PARTNERSHIP, OR ASSOCIATION.

4 (11) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH.

5 (12) (a) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" OR
6 "STAFFING AGENCY" MEANS A PERSON THAT EMPLOYS HEALTH-CARE
7 WORKERS AND, FOR A FEE, ASSIGNS THEM TO TEMPORARY PLACEMENTS IN
8 HEALTH-CARE FACILITIES.

9 (b) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" DOES NOT
10 INCLUDE:

11 (I) AN INDIVIDUAL ACTING AS AN INDEPENDENT CONTRACTOR WHO
12 IS ONLY ENGAGED IN PROVIDING THE INDIVIDUAL'S SERVICES ON A
13 TEMPORARY BASIS TO HEALTH-CARE FACILITIES; OR

14 (II) A HEALTH-CARE WORKER PLATFORM.

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16 **25-27.3-103. License required - civil penalties.** (1) ON OR
17 AFTER APRIL 1, 2023, IT IS UNLAWFUL FOR ANY PERSON TO CONDUCT OR
18 MAINTAIN A SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY IN THIS
19 STATE WITHOUT HAVING OBTAINED A LICENSE FROM THE DEPARTMENT.

20 (2) (a) ANY PERSON WHO VIOLATES THIS SECTION:

21 (I) COMMITS A CIVIL INFRACTION; AND

22 (II) (A) MAY BE SUBJECT TO A CIVIL PENALTY ASSESSED BY THE
23 DEPARTMENT OF NOT LESS THAN FIFTY DOLLARS NOR MORE THAN ONE
24 HUNDRED DOLLARS FOR EACH DAY THE PERSON IS IN VIOLATION OF THIS
25 SECTION.

26 (B) A PENALTY ASSESSED PURSUANT TO SUBSECTION (2)(a)(II)(A)
27 OF THIS SECTION ACCRUES FROM THE DATE THE DEPARTMENT FINDS THE

1 PERSON IN VIOLATION OF THIS SECTION.

2 (b) THE DEPARTMENT SHALL ASSESS, COLLECT, AND ENFORCE
3 PENALTIES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 AND CREDIT THE
4 MONEY TO THE FUND. THE DEPARTMENT MAY ENFORCE AND COLLECT A
5 CIVIL PENALTY AFTER REACHING A DECISION IN ACCORDANCE WITH
6 PROCEDURES SET FORTH IN SECTION 24-4-105.

7 **25-27.3-104. License - application - issuance - fees - rules.**

8 (1) EACH LOCATION OF A SUPPLEMENTAL HEALTH-CARE STAFFING
9 AGENCY MUST BE LICENSED BY THE STATE BOARD WITH A SEPARATE
10 LICENSE.

11 (2) (a) TO OBTAIN AN INITIAL OR RENEWAL SUPPLEMENTAL
12 HEALTH-CARE STAFFING AGENCY LICENSE, A PERSON SHALL SUBMIT AN
13 APPLICATION TO THE DEPARTMENT IN THE FORM AND MANNER REQUIRED
14 BY THE DEPARTMENT. AT A MINIMUM, THE APPLICATION MUST INCLUDE:

15 (I) THE NAMES AND ADDRESSES OF THE DIRECT AND INDIRECT
16 OWNERS AND THE CONTROLLING PERSON OF THE APPLICANT OR STAFFING
17 AGENCY;

18 (II) IF THE CONTROLLING PERSON IS A CORPORATION, COPIES OF ITS
19 ARTICLES OF INCORPORATION AND CURRENT BYLAWS, TOGETHER WITH
20 THE NAMES AND ADDRESSES OF ITS OFFICERS AND DIRECTORS;

21 (III) SATISFACTORY PROOF OF COMPLIANCE WITH THIS ARTICLE
22 27.3, INCLUDING THE REQUIREMENT TO OBTAIN AND MAINTAIN
23 PROFESSIONAL LIABILITY INSURANCE FOR HEALTH-CARE WORKERS;

24 (IV) THE APPLICANT'S DECLARATION THAT THE APPLICANT WILL
25 COMPLY WITH STATE BOARD RULES RELATING TO THE AVAILABILITY OF
26 THE STAFFING AGENCY'S RECORDS;

27 (V) ANY OTHER RELEVANT INFORMATION, AS DETERMINED BY THE

1 STATE BOARD BY RULE, THAT IS NECESSARY FOR THE DEPARTMENT TO
2 PROPERLY EVALUATE AN APPLICATION FOR LICENSURE; AND

3 (VI) A LICENSE FEE IN THE AMOUNT SET BY THE STATE BOARD BY
4 RULE.

5 (b) IF THE APPLICANT OR STAFFING AGENCY FAILS TO SUBMIT A
6 COMPLETE APPLICATION FOR AN INITIAL LICENSE OR LICENSE RENEWAL,
7 THE DEPARTMENT MAY REFUSE TO ISSUE A LICENSE OR IMMEDIATELY
8 SUSPEND A STAFFING AGENCY'S LICENSE.

9 (3)(a) THE DEPARTMENT SHALL INVESTIGATE AND APPROVE EACH
10 INITIAL APPLICATION AND EACH RENEWAL APPLICATION FOR A LICENSE.
11 THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE IF A
12 CONTROLLING PERSON HAS BEEN CONVICTED OF A FELONY OR OF A
13 MISDEMEANOR THAT INVOLVES MORAL TURPITUDE OR INVOLVES CONDUCT
14 THAT THE DEPARTMENT OR THE STATE BOARD BY RULE DETERMINES
15 COULD POSE A RISK TO THE HEALTH, SAFETY, AND WELFARE OF THE
16 PATIENTS OR RESIDENTS OF A HEALTH-CARE FACILITY.

17 (b) WITH SUBMISSION OF AN APPLICATION PURSUANT TO THIS
18 SECTION, EACH CONTROLLING PERSON SHALL SUBMIT A COMPLETE SET OF
19 THE PERSON'S FINGERPRINTS TO THE COLORADO BUREAU OF
20 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED
21 CRIMINAL HISTORY RECORD CHECK. UPON COMPLETION OF THE CRIMINAL
22 HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO
23 THE DEPARTMENT. THE DEPARTMENT MAY ACQUIRE A NAME-BASED
24 CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT WHO HAS TWICE
25 SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
26 AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.

27 (4) THE DEPARTMENT SHALL ISSUE OR RENEW A LICENSE TO

1 OPERATE A SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY WHEN IT IS
2 SATISFIED THAT THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE
3 REQUIREMENTS SET FORTH IN THIS ARTICLE 27.3 AND THE RULES
4 PROMULGATED PURSUANT TO THIS ARTICLE 27.3.

5 (5) WHEN AN APPLICATION FOR AN INITIAL LICENSE HAS BEEN
6 DENIED BY THE DEPARTMENT, THE DEPARTMENT SHALL PROVIDE NOTICE
7 TO THE APPLICANT BY MAILING A NOTICE TO THE APPLICANT AT THE
8 ADDRESS LISTED ON THE APPLICATION. ANY APPLICANT AGGRIEVED BY
9 THE DENIAL OF A LICENSE MAY SEEK REVIEW AS PROVIDED IN ARTICLE 4
10 OF TITLE 24, AND THE DEPARTMENT SHALL FOLLOW THE PROCEDURES
11 SPECIFIED IN ARTICLE 4 OF TITLE 24.

12 (6) (a) THE STATE BOARD SHALL ESTABLISH BY RULE A SCHEDULE
13 OF FEES FOR LICENSING SUPPLEMENTAL HEALTH-CARE STAFFING AGENCIES
14 THAT IS SUFFICIENT TO MEET THE DEPARTMENT'S DIRECT AND INDIRECT
15 COSTS TO ADMINISTER AND ENFORCE THIS ARTICLE 27.3.

16 (b) THE DEPARTMENT SHALL ASSESS AND COLLECT FEES FROM
17 STAFFING AGENCIES IN ACCORDANCE WITH THE FEE SCHEDULE
18 ESTABLISHED BY THE STATE BOARD IN SUBSECTION (6)(a) OF THIS SECTION
19 AND SHALL TRANSMIT FEES COLLECTED PURSUANT TO THIS SECTION TO
20 THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

21 (c) IN ADDITION TO USING THE FEES FOR THE DEPARTMENT'S
22 DIRECT AND INDIRECT COSTS OF ADMINISTERING AND ENFORCING THIS
23 ARTICLE 27.3, THE DEPARTMENT MAY USE THE FEES COLLECTED PURSUANT
24 TO THIS SUBSECTION (6) TO PROVIDE TECHNICAL ASSISTANCE AND
25 EDUCATION TO STAFFING AGENCIES RELATING TO COMPLIANCE IWTH
26 COLORADO LAW.

27 (7) (a) A LICENSE OR RENEWAL OF A LICENSE ISSUED BY THE

1 DEPARTMENT PURSUANT TO THIS SECTION IS EFFECTIVE FOR A PERIOD OF
2 ONE YEAR AFTER THE DATE OF ISSUANCE UNLESS THE LICENSE IS REVOKED
3 OR SUSPENDED IN ACCORDANCE WITH SECTION 25-27.3-107, OR UNLESS
4 THE SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY IS SOLD OR
5 OWNERSHIP OR MANAGEMENT IS TRANSFERRED TO A DIFFERENT
6 CONTROLLING PERSON.

7 (b) IF A SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY IS SOLD
8 OR OWNERSHIP OR MANAGEMENT IS TRANSFERRED TO A DIFFERENT
9 CONTROLLING PERSON, THE DEPARTMENT SHALL REVOKE THE STAFFING
10 AGENCY'S LICENSE AND THE NEW CONTROLLING PERSON MAY APPLY FOR
11 A NEW LICENSE.

12 (8) NOTHING IN THIS ARTICLE 27.3 PREVENTS ANY HEALTH-CARE
13 WORKER PLATFORM FROM ACCESSING STATE RESOURCES NECESSARY TO
14 QUALIFY AND CREDENTIAL A HEALTH-CARE WORKER IN ORDER TO BE
15 HIRED BY A HEALTH-CARE FACILITY, INCLUDING STATE BACKGROUND
16 CHECK SYSTEMS, NURSE REGISTRIES, AND ABUSE AND NEGLECT
17 REGISTRIES.

18 **25-27.3-105. Minimum standards - rules.** (1) THE STATE BOARD
19 MAY PROMULGATE ANY RULES NECESSARY FOR THE IMPLEMENTATION OF
20 THIS ARTICLE 27.3.

21 (2) THE STATE BOARD SHALL PROMULGATE RULES ESTABLISHING
22 MINIMUM STANDARDS FOR THE OPERATION OF SUPPLEMENTAL
23 HEALTH-CARE STAFFING AGENCIES. THE STATE BOARD SHALL
24 PROMULGATE INITIAL RULES NO LATER THAN JANUARY 1, 2023. AT A
25 MINIMUM, THE STATE BOARD'S RULES MUST REQUIRE A SUPPLEMENTAL
26 HEALTH-CARE STAFFING AGENCY TO:

27 (a) ENSURE AND DOCUMENT THAT EACH OF ITS HEALTH-CARE

1 WORKERS PLACED IN A HEALTH-CARE FACILITY HAS A CURRENT,
2 UNRESTRICTED LICENSE OR CERTIFICATION IN GOOD STANDING AND MEETS
3 THE TRAINING AND CONTINUING EDUCATION STANDARDS FOR THE
4 POSITION IN WHICH THE HEALTH-CARE WORKER WILL BE WORKING;

5 (b) COMPLY WITH ALL PERTINENT REQUIREMENTS RELATING TO
6 THE HEALTH AND OTHER QUALIFICATIONS OF HEALTH-CARE WORKERS
7 PLACED IN A HEALTH-CARE FACILITY, INCLUDING ENSURING THAT ALL
8 HEALTH-CARE WORKERS MEET REQUIREMENTS FOR INFLUENZA AND
9 COVID-19 VACCINATIONS AND REQUIRED BACKGROUND CHECKS;

10 (c) PROVIDE EVIDENCE OF AND MAINTAIN PROFESSIONAL LIABILITY
11 INSURANCE IN AN AMOUNT DETERMINED BY THE STATE BOARD BY RULE;

12 (d) MAINTAIN A SURETY BOND IN THE AMOUNT OF TEN THOUSAND
13 DOLLARS;

14 (e) MAINTAIN WORKERS' COMPENSATION INSURANCE COVERAGE
15 IN ACCORDANCE WITH ARTICLES 40 TO 47 OF TITLE 8 FOR ALL
16 HEALTH-CARE WORKERS EMPLOYED BY THE STAFFING AGENCY;

17 (f) FILE WITH THE DEPARTMENT:

18 (I) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION IN
19 WHICH THE STAFFING AGENCY DEPOSITS ALL EMPLOYEE INCOME TAX
20 WITHHOLDINGS; AND

21 (II) THE NAME AND ADDRESS OF ANY HEALTH-CARE WORKER
22 WHOSE INCOME IS DERIVED FROM PLACEMENT BY THE STAFFING AGENCY,
23 IF THE STAFFING AGENCY PURPORTS THE INCOME IS NOT SUBJECT TO
24 WITHHOLDING;

25 (g) NOT RESTRICT IN ANY MANNER THE EMPLOYMENT
26 OPPORTUNITIES OF HEALTH-CARE WORKERS EMPLOYED BY THE STAFFING
27 AGENCY;

1 (h) NOT, IN ANY CONTRACT WITH ANY EMPLOYEE OR HEALTH-CARE
2 FACILITY, REQUIRE THE PAYMENT OF LIQUIDATED DAMAGES, EMPLOYMENT
3 FEES, OR OTHER COMPENSATION IF AN EMPLOYEE PLACED BY THE
4 STAFFING AGENCY IS HIRED AS A PERMANENT EMPLOYEE OF A
5 HEALTH-CARE FACILITY;

6 (i) DOCUMENT THAT EACH HEALTH-CARE WORKER PROVIDING
7 SERVICES IN A HEALTH-CARE FACILITY IS AN EMPLOYEE OF THE STAFFING
8 AGENCY AND IS NOT AN INDEPENDENT CONTRACTOR; AND

9 (j) RETAIN ALL RECORDS FOR SIX CALENDAR YEARS. ALL RECORDS
10 OF THE STAFFING AGENCY MUST BE IMMEDIATELY AVAILABLE TO THE
11 DEPARTMENT.

12 **25-27.3-106. Employee - criminal history record check - adult**
13 **protective services system record check.** (1) A SUPPLEMENTAL
14 HEALTH-CARE STAFFING AGENCY SHALL:

15 (a) REQUIRE A HEALTH-CARE WORKER SEEKING EMPLOYMENT
16 WITH THE STAFFING AGENCY TO SUBMIT TO A CRIMINAL HISTORY RECORD
17 CHECK NOT MORE THAN NINETY DAYS BEFORE EMPLOYMENT, AT THE
18 STAFFING AGENCY'S EXPENSE;

19 (b) INQUIRE OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS
20 IN THE DEPARTMENT OF REGULATORY AGENCIES OR RELEVANT
21 REGULATORY BOARD FOR THE APPLICABLE PROFESSION OR OCCUPATION
22 TO ENSURE THAT THE HEALTH-CARE WORKER'S LICENSE OR CERTIFICATION
23 IS IN GOOD STANDING WITH THE DIVISION OR REGULATORY BOARD; AND

24 (c) OBTAIN A CHECK OF THE ADULT PROTECTIVE SERVICES DATA
25 SYSTEM PURSUANT TO SECTION 26-3.1-111 FOR ANY EMPLOYEE OF THE
26 STAFFING AGENCY, AS DEFINED IN SECTION 26-3.1-111 (2).

27 **25-27.3-107. License denial - suspension - revocation - failure**

1 **to renew - intermediate restrictions on license - complaints against**
2 **licensee.** (1) THE DEPARTMENT:

3 (a) MAY REVOKE, SUSPEND, OR FAIL TO RENEW A SUPPLEMENTAL
4 HEALTH-CARE STAFFING AGENCY'S LICENSE IF THE STAFFING AGENCY HAS
5 FAILED TO COMPLY WITH MINIMUM STANDARDS FOR SUPPLEMENTAL
6 HEALTH-CARE STAFFING AGENCIES SET FORTH IN STATE BOARD RULES
7 PROMULGATED PURSUANT TO SECTION 25-27.3-105, AS WELL AS ANY
8 OTHER RULES PROMULGATED BY THE STATE BOARD TO IMPLEMENT THIS
9 ARTICLE 27.3;

10 (b) SHALL NOT RENEW A SUPPLEMENTAL HEALTH-CARE STAFFING
11 AGENCY'S LICENSE IF THE STAFFING AGENCY HAS NOT REFERRED A
12 HEALTH-CARE WORKER OR OTHERWISE PROVIDED SERVICES TO A
13 HEALTH-CARE FACILITY IN THE YEAR IMMEDIATELY PRECEDING THE
14 STAFFING AGENCY'S RENEWAL DATE. IF THE STAFFING AGENCY'S LICENSE
15 IS NOT RENEWED PURSUANT TO THIS SUBSECTION (1)(b), THE STAFFING
16 AGENCY MUST APPLY FOR AND OBTAIN A NEW LICENSE IN ORDER TO
17 CONDUCT OPERATIONS AS A STAFFING AGENCY.

18 (c) SHALL NOT ISSUE OR RENEW AND SHALL REVOKE OR SUSPEND
19 A SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY'S LICENSE IF:

20 (I) THE STAFFING AGENCY KNOWINGLY PROVIDES TO A
21 HEALTH-CARE FACILITY A HEALTH-CARE WORKER WHO HAS AN ILLEGALLY
22 OR FRAUDULENTLY OBTAINED OR ISSUED DIPLOMA, REGISTRATION,
23 LICENSE, CERTIFICATION, OR OTHER REQUIRED CREDENTIAL OR
24 BACKGROUND CHECK OR CRIMINAL HISTORY RECORD CHECK;

25 (II) THE CONTROLLING PERSON WAS THE CONTROLLING PERSON OF
26 A STAFFING AGENCY FOR WHICH THE DEPARTMENT HAS FAILED TO RENEW
27 THE LICENSE OR HAS SUSPENDED OR REVOKED THE LICENSE FOR

1 NONCOMPLIANCE WITH THIS ARTICLE 27.3 AT ANY TIME DURING THE FIVE
2 YEARS IMMEDIATELY FOLLOWING THE NONRENEWAL, SUSPENSION, OR
3 REVOCATION; OR

4 (III) THE CONTROLLING PERSON INCLUDES ANY PERSON WHO WAS
5 A CONTROLLING PERSON OF A STAFFING AGENCY DESCRIBED IN
6 SUBSECTION (1)(c)(II) OF THIS SECTION.

7 (2) IF THE DEPARTMENT DENIES AN INITIAL LICENSE, SUSPENDS,
8 REVOKES, OR FAILS TO RENEW A LICENSE, THE DEPARTMENT SHALL
9 COMPLY WITH THE REQUIREMENTS OF ARTICLE 4 OF TITLE 24 IN TAKING
10 THE ACTION.

11 (3) THE DEPARTMENT MAY IMPOSE INTERMEDIATE RESTRICTIONS
12 OR CONDITIONS ON THE SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY'S
13 LICENSE AS DETERMINED BY THE STATE BOARD BY RULE AND SHALL
14 PROVIDE TIMELY NOTICE OF THE RESTRICTIONS OR CONDITIONS TO THE
15 STAFFING AGENCY. THE STAFFING AGENCY MAY APPEAL AN INTERMEDIATE
16 RESTRICTION TO THE DEPARTMENT THROUGH AN INFORMAL REVIEW
17 PROCESS ESTABLISHED BY THE DEPARTMENT. IF THE STAFFING AGENCY IS
18 NOT SATISFIED WITH THE RESULT OF THE INFORMAL REVIEW OR DOES NOT
19 SEEK AN INFORMAL REVIEW, THE DEPARTMENT SHALL NOT IMPOSE AN
20 INTERMEDIATE RESTRICTION OR CONDITION ON THE STAFFING AGENCY
21 UNTIL AFTER THE STAFFING AGENCY IS AFFORDED AN OPPORTUNITY FOR
22 A HEARING PURSUANT TO SECTION 24-4-105.

23 (4) THE STATE BOARD SHALL ESTABLISH BY RULE A PROCESS TO BE
24 ADMINISTERED BY THE DEPARTMENT FOR RECEIVING AND INVESTIGATING
25 COMPLAINTS AGAINST LICENSEES RELATING TO A LICENSEE'S COMPLIANCE
26 WITH THIS ARTICLE 27.3 AND STATE BOARD RULES.

27 **25-27.3-108. Required reporting to department concerning**

1 **services provided - penalty.** (1) COMMENCING WITH THE QUARTER
2 ENDING JUNE 30, 2023, AND EACH QUARTER THEREAFTER, EACH
3 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY SHALL SUBMIT A
4 QUARTERLY REPORT TO THE DEPARTMENT CONCERNING THE SERVICES
5 PROVIDED BY THE STAFFING AGENCY TO A HEALTH-CARE FACILITY
6 PARTICIPATING IN THE MEDICARE PROGRAM OR THE MEDICAL ASSISTANCE
7 PROGRAM ESTABLISHED IN ARTICLES 4, 5, AND 6 OF TITLE 25.5. THE
8 QUARTERLY REPORT MUST INCLUDE THE FOLLOWING:

9 (a) A DETAILED LISTING OF THE AVERAGE AMOUNT CHARGED FOR
10 HEALTH-CARE SERVICES IN THE PRECEDING QUARTER FOR EACH CATEGORY
11 OF HEALTH-CARE WORKER PROVIDING SERVICES TO A HEALTH-CARE
12 FACILITY; AND

13 (b) A DETAILED LISTING OF THE AVERAGE AMOUNT PAID FOR
14 SERVICES IN THE PRECEDING QUARTER FOR EACH CATEGORY OF
15 HEALTH-CARE WORKER PROVIDING SERVICES TO A HEALTH-CARE FACILITY.

16 (2) THE DEPARTMENT SHALL POST ON ITS WEBSITE THE
17 INFORMATION REPORTED PURSUANT TO SUBSECTION (1) OF THIS SECTION
18 AND SHALL PROVIDE THE INFORMATION TO ANYONE REQUESTING THE
19 INFORMATION UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF
20 ARTICLE 72 OF TITLE 24.

21 (3) THE DEPARTMENT MAY ASSESS A CIVIL PENALTY AGAINST A
22 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY THAT FAILS TO PROVIDE
23 THE INFORMATION REQUIRED PURSUANT TO SUBSECTION (1) OF THIS
24 SECTION. UPON REPEATED FAILURE TO PROVIDE THE INFORMATION, THE
25 DEPARTMENT MAY REVOKE A STAFFING AGENCY'S LICENSE FOR A PERIOD
26 OF UP TO ONE YEAR OR THE DEPARTMENT MAY FAIL TO RENEW THE
27 STAFFING AGENCY'S LICENSE.

1 **25-27.3-109. Report - recommendations concerning limitations**
2 **on service rates - repeal.** (1) ON OR BEFORE DECEMBER 31, 2023, THE
3 DEPARTMENT SHALL SUBMIT A REPORT TO THE HEALTH AND INSURANCE
4 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE HEALTH AND
5 HUMAN SERVICES COMMITTEE OF THE SENATE, THE JOINT BUDGET
6 COMMITTEE, AND THE GOVERNOR CONCERNING THE DEPARTMENT'S
7 RECOMMENDATIONS FOR DETERMINING CAPS AND OTHER LIMITATIONS ON
8 SERVICE RATES AND THE AMOUNT THAT A SUPPLEMENTAL HEALTH-CARE
9 STAFFING AGENCY MAY CHARGE HEALTH-CARE FACILITIES ANNUALLY FOR
10 EACH CATEGORY OF HEALTH-CARE WORKER PROVIDING SERVICES TO
11 HEALTH-CARE FACILITIES.

12 (2) IN FORMULATING RECOMMENDATIONS, THE DEPARTMENT
13 SHALL CONDUCT A STAKEHOLDER PROCESS FOR AFFECTED STAKEHOLDERS,
14 INCLUDING REPRESENTATIVES OF LONG-TERM, ACUTE, AND PRIMARY CARE
15 SERVICE PROVIDERS, REPRESENTATIVES FROM AN EMPLOYEE
16 ORGANIZATION THAT REPRESENTS EMPLOYEES IN THE HEALTH-CARE
17 INDUSTRY, AND REPRESENTATIVES FROM THE DEPARTMENT OF HEALTH
18 CARE POLICY AND FINANCING, THE DEPARTMENT OF HUMAN SERVICES,
19 AND THE GOVERNOR'S OFFICE.

20 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

21 **25-27.3-110. Article does not prohibit health-care worker**
22 **contracting.** NOTHING IN THIS ARTICLE 27.3 IS APPLICABLE TO ANY
23 INDIVIDUAL HEALTH-CARE WORKER WHO SEPARATELY NEGOTIATES AND
24 ENTERS INTO AN AGREEMENT WITH A HEALTH-CARE FACILITY TO PROVIDE
25 SERVICES FOR COMPENSATION, EITHER DIRECTLY OR THROUGH A
26 HEALTH-CARE WORKER PLATFORM.

27 **25-27.3-111. List of licensed staffing agencies.** THE

1 DEPARTMENT SHALL MAINTAIN A CURRENT LIST OF LICENSED
2 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCIES AND SHALL MAKE THE
3 LIST PUBLICLY AVAILABLE ON THE DEPARTMENT'S WEBSITE.

4 **25-27.3-112. Supplemental health-care staffing agency cash**
5 **fund.** (1) THE SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY CASH
6 FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS
7 OF MONEY CREDITED TO THE FUND PURSUANT TO THIS ARTICLE 27.3.

8 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
9 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
10 FUND TO THE FUND.

11 (3) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
12 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE FUND TO
13 CARRY OUT ITS DUTIES UNDER THIS ARTICLE 27.3.

14 **SECTION 2. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.