

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

SB22-210 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 25-1.5-118 as
4 follows:

5 **25-1.5-118. Regulation of supplemental health-care staffing**
6 **agencies - report - stakeholder process - definitions - repeal.** (1) AS
7 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT.

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

12 (c) "HEALTH-CARE WORKER" MEANS A PERSON EMPLOYED BY A
13 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY FOR TEMPORARY
14 PLACEMENT IN A HEALTH-CARE FACILITY.

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

26 (e) (I) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" OR
27 "STAFFING AGENCY" MEANS AN INDIVIDUAL OR TYPE OF ORGANIZATION,
28 INCLUDING ANY PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED
29 LIABILITY COMPANY, LIMITED LIABILITY LIMITED PARTNERSHIP,
30 ASSOCIATION, TRUST, JOINT STOCK COMPANY, INSURANCE COMPANY, OR
31 CORPORATION, WHETHER DOMESTIC OR FOREIGN, ENGAGED IN THE
32 BUSINESS OF PROVIDING HEALTH-CARE WORKERS WHO ARE EMPLOYEES OF
33 THE STAFFING AGENCY, AND, FOR A FEE, ASSIGNING THEM TO TEMPORARY
34 PLACEMENTS IN HEALTH-CARE FACILITIES.

35 (II) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" DOES NOT
36 INCLUDE:

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

40 (B) A HEALTH-CARE WORKER PLATFORM.

1 (2) NO LATER THAN NOVEMBER 30, 2023, THE DEPARTMENT, IN
2 CONSULTATION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND
3 FINANCING, SHALL SUBMIT A REPORT DESCRIBED IN SUBSECTION (3) OF
4 THIS SECTION TO THE GOVERNOR'S OFFICE, THE ATTORNEY GENERAL'S
5 OFFICE, THE JOINT BUDGET COMMITTEE, THE HEALTH AND INSURANCE
6 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE HEALTH AND
7 HUMAN SERVICES COMMITTEE OF THE SENATE, OR THEIR SUCCESSOR
8 COMMITTEES.

9 (3) AT A MINIMUM, THE DEPARTMENT'S REPORT MUST INCLUDE:

10 (a) SYNTHESIZED FINDINGS FROM INFORMATION REPORTED BY
11 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCIES TO THE DEPARTMENT
12 OF LABOR AND EMPLOYMENT PURSUANT TO SECTION 8-4-125;

13 (b) INFORMATION REGARDING THE IMPACT OF SUPPLEMENTAL
14 HEALTH-CARE STAFFING AGENCIES ON HEALTH-CARE FACILITIES AND
15 RECOMMENDATIONS SPECIFIC TO HEALTH-CARE FACILITIES;

16 (c) AN OVERVIEW OF SUPPLEMENTAL HEALTH-CARE STAFFING
17 AGENCIES IN THE STATE AND THE USE OF STAFFING AGENCIES BY
18 HEALTH-CARE FACILITIES;

19 (d) INFORMATION REGARDING ANY FEDERAL GOVERNMENT
20 INITIATIVES THAT SEEK TO ADDRESS ISSUES RELATING TO SUPPLEMENTAL
21 HEALTH-CARE STAFFING AGENCIES AND HEALTH-CARE FACILITIES;

22 (e) RECOMMENDATIONS FOR THE CONTINUATION OR REPEAL OF
23 REQUIRED STATUTORY REPORTING BY SUPPLEMENTAL HEALTH-CARE
24 STAFFING AGENCIES PURSUANT TO SECTION 8-4-125; AND

25 (f) RECOMMENDATIONS FOR DETERMINING CAPS AND OTHER
26 LIMITATIONS ON SERVICE RATES AND THE AMOUNT THAT SUPPLEMENTAL
27 HEALTH-CARE STAFFING AGENCIES MAY CHARGE FOR EACH CATEGORY OF
28 HEALTH-CARE WORKER PROVIDING SERVICES TO HEALTH-CARE FACILITIES.

29 (4) IN FORMULATING RECOMMENDATIONS PURSUANT TO
30 SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT SHALL CONDUCT A
31 STAKEHOLDER PROCESS THAT INCLUDES REPRESENTATIVES FROM
32 LONG-TERM, ACUTE, AND PRIMARY CARE SERVICE PROVIDERS,
33 SUPPLEMENTAL HEALTH-CARE STAFFING AGENCIES, AN EMPLOYEE
34 ORGANIZATION THAT REPRESENTS EMPLOYEES IN THE HEALTH-CARE
35 INDUSTRY, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,
36 AND THE DEPARTMENT OF LABOR AND EMPLOYMENT.

37 **SECTION 2.** In Colorado Revised Statutes, **add** 8-4-125 as
38 follows:

39 **8-4-125. Supplemental health-care staffing agencies - annual**
40 **certification - reporting - definitions.** (1) AS USED IN THIS SECTION,
41 UNLESS THE CONTEXT OTHERWISE REQUIRES:

42 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
43 EMPLOYMENT.

1 (b) "HEALTH-CARE FACILITY" MEANS A FACILITY LICENSED BY THE
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO
3 SECTION 25-1.5-103 (1)(a).
4 (c) "HEALTH-CARE WORKER" HAS THE MEANING SET FORTH IN
5 SECTION 25-1.5-118 (1).
6 (d) "HEALTH-CARE WORKER PLATFORM" OR "PLATFORM" HAS THE
7 MEANING SET FORTH IN SECTION 25-1.5-118 (1).
8 (e) "SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY" OR
9 "STAFFING AGENCY" HAS THE MEANING SET FORTH IN SECTION 25-1.5-118
10 (1).
11 (2) (a) ON AND AFTER OCTOBER 1, 2022, IT IS UNLAWFUL FOR ANY
12 PERSON TO OPERATE A SUPPLEMENTAL HEALTH-CARE STAFFING AGENCY
13 IN THIS STATE WITHOUT COMPLETING THE STAFFING AGENCY'S INITIAL
14 CERTIFICATION AND REQUIRED ANNUAL CERTIFICATION WITH THE
15 DEPARTMENT PURSUANT TO SECTION 8-70-114.
16 (b) ANY PERSON WHO VIOLATES THIS SECTION COMMITS A CIVIL
17 INFRACTION AND MAY BE SUBJECT TO FINES DETERMINED BY THE
18 DEPARTMENT.
19 (c) ON OR BEFORE SEPTEMBER 1, 2022, AND SEPTEMBER 1, EACH
20 YEAR THEREAFTER, THE DEPARTMENT OF PUBLIC HEALTH AND
21 ENVIRONMENT AND THE DEPARTMENT OF HEALTH CARE POLICY AND
22 FINANCING SHALL PROVIDE THE DEPARTMENT WITH A LIST OF ALL KNOWN
23 NAMES AND CONTACT INFORMATION FOR SUPPLEMENTAL HEALTH-CARE
24 STAFFING AGENCIES OPERATING IN THE STATE.
25 (3) (a) ON OR BEFORE APRIL 30, 2023, EACH SUPPLEMENTAL
26 HEALTH-CARE STAFFING AGENCY OPERATING IN THE STATE SHALL
27 PROVIDE TO THE DEPARTMENT A QUARTERLY REPORT CONTAINING THE
28 INFORMATION AND CERTIFICATIONS SET FORTH IN SUBSECTION (3)(b) OF
29 THIS SECTION FOR THE FIRST QUARTER OF 2023. THE STAFFING AGENCY
30 SHALL CONTINUE TO FILE QUARTERLY REPORTS CONTAINING THE
31 INFORMATION AND CERTIFICATIONS DESCRIBED IN SUBSECTION (3)(b) OF
32 THIS SECTION NO LATER THAN THE LAST DAY OF THE MONTH IMMEDIATELY
33 FOLLOWING THE END OF THE APPLICABLE QUARTER.
34 (b) AT A MINIMUM, A STAFFING AGENCY'S QUARTERLY REPORTS
35 REQUIRED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION MUST
36 INCLUDE:
37 (I) THE NAME OF EACH DIRECT AND INDIRECT OWNER OF THE
38 STAFFING AGENCY;
39 (II) IF THE STAFFING AGENCY'S DIRECT OWNER IS A CORPORATION,
40 COPIES OF THE ARTICLES OF INCORPORATION AND CURRENT BYLAWS;
41 (III) A DETAILED LISTING OF THE AVERAGE AMOUNT CHARGED
42 DURING THE REPORTING PERIOD TO A HEALTH-CARE FACILITY FOR EACH
43 CATEGORY OF HEALTH-CARE WORKER PROVIDING SERVICES TO THE

1 HEALTH-CARE FACILITY;

2 (IV) A DETAILED LISTING OF THE AVERAGE AMOUNT PAID DURING

3 THE REPORTING PERIOD TO HEALTH-CARE WORKERS FOR THEIR SERVICES

4 FOR EACH CATEGORY OF HEALTH-CARE WORKER PROVIDING SERVICES;

5 (V) THE STAFFING AGENCY'S CERTIFICATION THAT EACH

6 HEALTH-CARE WORKER CONTRACTED TO A HEALTH-CARE FACILITY

7 DURING THE REPORTING PERIOD HAD A CURRENT, UNRESTRICTED LICENSE

8 OR CERTIFICATION IN GOOD STANDING AND MET THE TRAINING AND

9 CONTINUING EDUCATION STANDARDS FOR THE POSITION WITH THE

10 HEALTH-CARE FACILITY THROUGHOUT THE ENTIRETY OF THE REPORTING

11 PERIOD;

12 (VI) THE STAFFING AGENCY'S CERTIFICATION THAT EACH

13 HEALTH-CARE WORKER CONTRACTED TO A HEALTH-CARE FACILITY HAD

14 SUCCESSFULLY COMPLETED ALL BACKGROUND CHECKS REQUIRED BY

15 FEDERAL AND STATE LAW, RULE, AND REGULATION RELATING TO THE

16 HEALTH-CARE POSITION AND HEALTH-CARE FACILITY IN WHICH THE

17 HEALTH-CARE WORKER WAS PLACED DURING THE REPORTING PERIOD; AND

18 (VII) THE STAFFING AGENCY'S CERTIFICATION THAT THE STAFFING

19 AGENCY MAINTAINED PROFESSIONAL LIABILITY INSURANCE THROUGHOUT

20 THE ENTIRETY OF THE REPORTING PERIOD FOR EACH HEALTH-CARE

21 WORKER CONTRACTED TO A HEALTH-CARE FACILITY DURING THE

22 REPORTING PERIOD.

23 (c) THE DEPARTMENT SHALL ESTABLISH THE MANNER AND FORM

24 OF REPORTING PURSUANT TO THIS SUBSECTION (3).

25 (4) (a) (I) THE DEPARTMENT SHALL IMPOSE A FINE IN THE AMOUNT

26 OF FIVE HUNDRED DOLLARS FOR A REPORT REQUIRED PURSUANT TO

27 SUBSECTION (3) OF THIS SECTION THAT:

28 (A) IS NOT SUBMITTED WITHIN THIRTY DAYS AFTER THE

29 REPORTING DEADLINE; OR

30 (B) THE DEPARTMENT DEEMS NONCOMPLIANT WITH THE

31 REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION.

32 (II) THE DEPARTMENT MAY WAIVE THE FINE IF THE STAFFING

33 AGENCY IS ABLE TO SHOW GOOD CAUSE FOR THE DELAY IN SUBMITTING

34 THE REPORT OR FOR SUBMITTING A NONCOMPLIANT REPORT.

35 (b) THE DEPARTMENT SHALL SEND NOTICE TO EACH STAFFING

36 AGENCY THAT:

37 (I) HAS NOT SUBMITTED THE REQUIRED QUARTERLY REPORT ON OR

38 BEFORE THE DEADLINE; OR

39 (II) HAS NOT SUBMITTED A COMPLIANT REPORT.

40 (c) IF THE STAFFING AGENCY DOES NOT SUBMIT A COMPLIANT

41 REPORT WITHIN THIRTY DAYS AFTER THE DATE OF THE DEPARTMENT'S

42 NOTICE OF NONCOMPLIANCE, THE DEPARTMENT SHALL IMPOSE A FINE OF

43 TEN THOUSAND DOLLARS, AND FOR A FAILURE IN ANY SUBSEQUENT

1 QUARTER TO TIMELY SUBMIT A COMPLIANT REPORT WITHIN THIRTY DAYS
2 AFTER THE DEPARTMENT'S NOTICE OF NONCOMPLIANCE, A FINE OF TWENTY
3 THOUSAND DOLLARS. THE DEPARTMENT MAY WAIVE OR REDUCE THE
4 STAFFING AGENCY'S FINE IF THE STAFFING AGENCY IS ABLE TO SHOW GOOD
5 CAUSE FOR DELAYING THE SUBMISSION OF THE REPORT.

6 (5) THE DEPARTMENT SHALL PROVIDE COPIES OF THE QUARTERLY
7 REPORTS REQUIRED PURSUANT TO SUBSECTION (3) OF THIS SECTION TO THE
8 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND TO THE
9 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR PURPOSES OF
10 ANALYZING THE INFORMATION PROVIDED BY THE STAFFING AGENCIES TO
11 MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND THE
12 GOVERNOR PURSUANT TO SECTION 25-1.5-118 CONCERNING THE
13 REGULATION OF STAFFING AGENCY SERVICE RATES AND RATES CHARGED
14 TO HEALTH-CARE FACILITIES.

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

24 Page 1, line 103, strike "ENVIRONMENT." and substitute "ENVIRONMENT,
25 AND, IN CONNECTION THEREWITH, REQUIRING SUPPLEMENTAL
26 HEALTH-CARE STAFFING AGENCIES TO REPORT DATA TO THE
27 DEPARTMENT OF LABOR AND EMPLOYMENT, AND REQUIRING THE
28 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO REPORT TO
29 THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE ATTORNEY
30 GENERAL'S OFFICE CONCERNING CAPS OR OTHER METHODS OF
31 REGULATING SERVICE RATES AND RATES CHARGED TO HEALTH-CARE
32 FACILITIES."

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