

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 982,
2 Page 5, Section 167.227, Line 15, by inserting after all of said section and line the following:
3

4 "198.640. As used in sections 198.640 to 198.648, the following terms shall mean:

5 (1) "Controlling person", a business entity, officer, program administrator, or director whose
6 responsibilities include the direction of the management or policies of a supplemental health care
7 services agency. The term "controlling person" also means an individual who, directly or indirectly,
8 beneficially owns an interest in a corporation, partnership, or other business association that is a
9 controlling person;

10 (2) "Department", the department of health and senior services;

11 (3) "Health care facility", a licensed hospital defined under section 197.020 or a licensed
12 entity defined under subdivision (6), (14), (22), or (23) of section 198.006;

13 (4) "Health care personnel", any individual licensed, accredited, or certified by the state of
14 Missouri to perform specified health services consistent with state law;

15 (5) "Person", an individual, firm, corporation, partnership, or association;

16 (6) "Supplemental health care services agency" or "agency", a person, firm, corporation,
17 partnership, or association engaged for hire in the business of providing or procuring temporary
18 employment in health care facilities for health care personnel, including a temporary nursing
19 staffing agency as defined in section 383.130, or that operates a digital website or digital
20 smartphone application that facilitates the provision of the engagement of health care personnel and
21 accepts requests for health care personnel through its digital website or digital smartphone
22 application. The term "supplemental health care services agency" or "agency" shall not include an
23 individual who engages, only on his or her own behalf, to provide the individual's services on a
24 temporary basis to health care facilities or a home health agency licensed under section 197.415 and
25 shall not include a person, firm, corporation, partnership, or association engaged in the provision of
26 contracted specialty services by a practitioner as defined under subdivision (4) of section 376.1575,
27 to a hospital as defined under section 197.020, or to other individuals or entities providing health
28 care that are not health care facilities.

29 198.642. 1. A person who operates a supplemental health care services agency shall register
30 annually with the department. Each separate business location of the agency shall have a separate

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1 registration with the department. Fees collected under this section shall be deposited in the state
2 treasury and credited to the state general revenue fund.

3 2. The department shall establish forms and procedures for processing each supplemental
4 health care services agency registration application. An application for agency registration shall
5 include at least the following:

6 (1) The names and addresses of each person having an ownership interest in the agency;

7 (2) If the owner is a corporation, copies of the articles of incorporation or articles of
8 association and current bylaws, together with the names and addresses of officers and directors;

9 (3) Satisfactory proof of compliance with the provisions of sections 198.640 to 198.648;

10 (4) Any other relevant information that the department determines is necessary to properly
11 evaluate an application for registration;

12 (5) Policies and procedures that describe how the agency's records will be immediately
13 available at all times to the department upon request; and

14 (6) A registration fee that may be established in rule by the department as determined to be
15 necessary to meet the expenses of the department for the administration of the provisions of sections
16 198.640 to 198.648, but in no case shall such fee be more than one thousand dollars.

17
18 If an agency fails to provide the items required in this subsection to the department, the department
19 shall immediately suspend or refuse to issue the supplemental health care services agency
20 registration. An agency may appeal the department's decision to the administrative hearing
21 commission under chapter 621.

22 3. A registration issued by the department according to this section shall be effective for a
23 period of one year from the date of its issuance, unless the registration has been revoked or
24 suspended under the provisions of this section or unless the agency is sold or ownership or
25 management is transferred. If an agency is sold or ownership or management is transferred, the
26 registration of the agency shall be void, and the new owner or operator may apply for a new
27 registration.

28 4. The department shall be responsible for the oversight of supplemental health care services
29 agencies through annual unannounced surveys, complaint investigations, and other actions
30 necessary to ensure compliance with sections 198.640 to 198.648.

31 198.644. 1. Each registered supplemental health care services agency shall be required, as a
32 condition of registration, to meet the following minimum criteria, which may be supplemented by
33 rules promulgated by the department:

34 (1) Provide to the health care facility to which any temporary health care personnel are
35 supplied documentation that each health care personnel meets all licensing or certification
36 requirements for the position in which the health care personnel will be working and documentation
37 that each health care personnel meets all training and continuing education standards for the position
38 in which the health care personnel will be working for the type of facility or entity with which the
39 health care personnel is placed in compliance with any federal, state, or local requirements;

1 (2) Comply with all pertinent requirements relating to the health and other qualifications of
2 personnel employed in health care facilities, including requirements related to background checks in
3 sections 192.2490 and 192.2495;

4 (3) Not restrict in any manner the employment opportunities of its health care personnel;

5 (4) Carry, or require the health care personnel to carry, and provide proof of medical
6 malpractice insurance to insure against loss, damages, or expenses incident to a claim arising out of
7 the death or injury of any person as the result of negligence or malpractice in the provision of health
8 care services by the agency or by any health care personnel of the agency;

9 (5) Maintain, and provide proof of, insurance coverage for workers' compensation for all
10 health care personnel provided or procured by the agency or, if the health care personnel provided or
11 procured by the agency are independent contractors, require occupational accident insurance;

12 (6) Refrain in any contract with any health care personnel or health care facility from
13 requiring the payment of liquidated damages, employment fees, or other compensation should the
14 health care personnel be hired as a permanent employee of a health care facility;

15 (7) (a) Submit a report to the department on a quarterly basis for each health care facility
16 participating in Medicare or Medicaid with which the agency contracts that includes all of the
17 following:

18 a. A detailed list of the average amount charged to the health care facility for each
19 individual health care personnel category; and

20 b. A detailed list of the average amount paid by the agency to health care personnel in each
21 individual health care personnel category;

22 (b) Such reports shall be considered closed records under section 610.021, provided that the
23 department shall annually prepare reports of aggregate data that does not identify any data specific
24 to any supplemental health care services agency;

25 (8) Retain all records for ten calendar years in a manner to allow them to be immediately
26 available to the department;

27 (9) Provide services to a health care facility during the year preceding the agency's
28 registration renewal date;

29 (10) Indemnify and hold harmless a health care facility for any damages, sanctions, or civil
30 monetary penalties that are proximately caused by an action or failure to act of any health care
31 personnel the agency provides to the health care facility; provided that the amount for which the
32 supplemental health care services agency may be liable to a health care facility for civil monetary
33 penalties and sanctions shall not exceed one hundred thousand dollars for civil monetary penalties
34 and sanctions that can be assessed against skilled nursing facilities by the United States Department
35 of Health and Human Services or the Centers for Medicare and Medicaid Services. If the damages,
36 sanctions, or civil monetary penalties are proximately caused by the negligence, action, or failure to
37 act by the health care facility, then liability shall be determined by a percentage of fault and shall be
38 the sole responsibility of the party against whom such determination is made. Such determinations
39 shall be made by the agreement of the parties or a neutral third party who considers all of the
40 relevant factors in making a determination.

41 2. Failure to comply with the provisions of this section shall subject the supplemental health

1 care services agency to revocation or nonrenewal of its registration.

2 3. The registration of a supplemental health care services agency that knowingly supplies to
3 a health care facility a person with an illegally or fraudulently obtained or issued diploma,
4 registration, license, certificate, or background study shall be revoked by the department upon
5 fifteen days' advance written notice.

6 4. (1) Any supplemental health care services agency whose registration has been suspended
7 or revoked may appeal the department's decision to the administrative hearing commission under the
8 provisions of chapter 621.

9 (2) If a controlling person has been notified by the department that the supplemental health
10 care services agency will not receive an initial registration or that a renewal of the registration has
11 been denied, the controlling person or a legal representative on behalf of the agency may request
12 and receive a hearing on the denial before the administrative hearing commission under the
13 provisions of chapter 621.

14 5. (1) The controlling person of a supplemental health care services agency whose
15 registration has not been renewed or has been revoked because of noncompliance with the
16 provisions of sections 198.640 to 198.648 shall not be eligible to apply for or receive a registration
17 for five years following the effective date of the nonrenewal or revocation.

18 (2) The department shall not issue or renew a registration to a supplemental health care
19 services agency if a controlling person includes any individual or entity that was a controlling
20 person of an agency whose registration was not renewed or was revoked as described in subdivision
21 (1) of this subsection for five years following the effective date of nonrenewal or revocation.

22 198.646. The department shall establish a system for reporting complaints against a
23 supplemental health care services agency or its health care personnel. Complaints may be made by
24 any member of the public. The department shall investigate any complaint received and shall report
25 the department's findings to the complaining party and the agency or health care personnel involved.

26 198.648. The department shall promulgate rules to implement the provisions of sections
27 198.640 to 198.648. Any rule or portion of a rule, as that term is defined in section 536.010, that is
28 created under the authority delegated in this section shall become effective only if it complies with
29 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
30 and chapter 536 are nonseverable, and if any of the powers vested with the general assembly
31 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
32 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
33 adopted after August 28, 2022, shall be invalid and void."; and
34

35 Further amend said bill, Page 39, Section 210.762, Line 46, by inserting after all of said section and
36 line the following:

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38 "210.921. 1. The department shall not provide any registry information pursuant to this
39 section unless the department obtains the name and address of the person [calling] or entity
40 requesting the information, and determines that the inquiry is for employment purposes only. For
41 purposes of sections 210.900 to 210.936, "employment purposes" includes direct employer-
42 employee relationships, prospective employer-employee relationships, direct or prospective

1 independent contractor relationships of health care personnel with a supplemental health care
2 services agency, as defined in section 198.640, and screening and interviewing of persons or
3 facilities by those persons contemplating the placement of an individual in a child-care, elder-care,
4 mental health, or personal-care setting. Disclosure of background information concerning a given
5 applicant recorded by the department in the registry shall be limited to:

6 (1) Confirming whether the individual is listed in the registry; and

7 (2) Indicating whether the individual has been listed or named in any of the background
8 checks listed in subsection 2 of section 210.903. If such individual has been so listed, the
9 department of health and senior services shall only disclose the name of the background check in
10 which the individual has been identified. With the exception of any agency licensed or contracted
11 by the state to provide child care, elder care, mental health services, or personal care which shall
12 receive specific information immediately if requested, any specific information related to such
13 background check shall only be disclosed after the department has received a signed request from
14 the person ~~[calling]~~ or entity requesting the information, with the person's or entity's name, address
15 and reason for requesting the information.

16 2. Any person or entity requesting registry information shall be informed that the registry
17 information provided pursuant to this section consists only of information relative to the state of
18 Missouri and does not include information from other states or information that may be available
19 from other states.

20 3. Any person who uses the information obtained from the registry for any purpose other
21 than that specifically provided for in sections 210.900 to 210.936 is guilty of a class B misdemeanor.

22 4. When any registry information is disclosed pursuant to subdivision (2) of subsection 1 of
23 this section, the department shall notify the registrant of the name and address of the person or entity
24 making the inquiry.

25 5. The department of health and senior services staff providing information pursuant to
26 sections 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that otherwise
27 might result by reason of such actions; provided, however, any department of health and senior
28 services staff person who releases registry information in bad faith or with ill intent shall not have
29 immunity from any liability, civil or criminal. Any such person shall have the same immunity with
30 respect to participation in any judicial proceeding resulting from the release of registry information.
31 The department is prohibited from selling the registry or any portion of the registry for any purpose
32 including employment purposes as defined in subsection 1 of this section."; and

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34 Further amend said bill by amending the title, enacting clause, and intersectional references
35 accordingly.