

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Committee Substitute for Senate Bill No. 982, Page 1, Line 2, by inserting after the word "Page" the following:

"5, Section 167.227, Line 15, by inserting after all of said section and line the following:

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

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

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

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

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

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

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

198.642. 1. A person who operates a supplemental health care services agency shall register

Action Taken _____ Date _____

1 annually with the department. Each separate business location of the agency shall have a separate
2 registration with the department. Fees collected under this section shall be deposited in the state treasury and
3 credited to the state general revenue fund.

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

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

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

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

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

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

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

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

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

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

30 198.644. 1. Each registered supplemental health care services agency shall be required, as a
31 condition of registration, to meet the following minimum criteria, which may be supplemented by rules
32 promulgated by the department:

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

39 (2) Comply with all pertinent requirements relating to the health and other qualifications of

1 personnel employed in health care facilities, including requirements related to background checks in sections
 2 192.2490 and 192.2495;

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

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

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

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

14 (7) (a) Submit a report to the department on a quarterly basis for each health care facility
 15 participating in Medicare or Medicaid with which the agency contracts that includes all of the following:
 16 a. A detailed list of the average amount charged to the health care facility for each individual health
 17 care personnel category; and

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

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

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

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

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

38 2. Failure to comply with the provisions of this section shall subject the supplemental health care
 39 services agency to revocation or nonrenewal of its registration.

40 3. The registration of a supplemental health care services agency that knowingly supplies to a health
 41 care facility a person with an illegally or fraudulently obtained or issued diploma, registration, license,

certificate, or background study shall be revoked by the department upon fifteen days' advance written notice.

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

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

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

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

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

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

Further amend said bill, Page"; and

Further amend said amendment, Page 4, Line 10, by inserting after said line the following:

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

"210.921. 1. The department shall not provide any registry information pursuant to this section unless the department obtains the name and address of the person ~~[calling]~~ or entity requesting the information, and determines that the inquiry is for employment purposes only. For purposes of sections 210.900 to 210.936, "employment purposes" includes direct employer-employee relationships, prospective employer-employee relationships, direct or prospective independent contractor relationships of health care personnel with a supplemental health care services agency, as defined in section 198.640, and screening and

1 interviewing of persons or facilities by those persons contemplating the placement of an individual in a child-
2 care, elder-care, mental health, or personal-care setting. Disclosure of background information concerning a
3 given applicant recorded by the department in the registry shall be limited to:

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

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

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

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

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

21 5. The department of health and senior services staff providing information pursuant to sections
22 210.900 to 210.936 shall have immunity from any liability, civil or criminal, that otherwise might result by
23 reason of such actions; provided, however, any department of health and senior services staff person who
24 releases registry information in bad faith or with ill intent shall not have immunity from any liability, civil or
25 criminal. Any such person shall have the same immunity with respect to participation in any judicial
26 proceeding resulting from the release of registry information. The department is prohibited from selling the
27 registry or any portion of the registry for any purpose including employment purposes as defined in
28 subsection 1 of this section."; and"; and
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30 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

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32 THIS AMENDMENT AMENDS 4507H04.06H