

Senate Bill 1549

Sponsored by Senator LIEBER, Representative NOSSE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Oregon Health Authority to issue temporary staffing agency license to qualified applicant. Defines "temporary staffing agency." Prohibits unlicensed operation of temporary staffing agency. Directs authority to adopt rules regulating temporary staffing agencies. Establishes maximum rate temporary staffing agency may charge for services. Exempts temporary staffing agency from regulation by Bureau of Labor and Industries. Imposes civil penalties for specified violations. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care temporary staffing agencies; creating new provisions; amending ORS 658.015;
3 and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 6 of this 2022 Act:**

6 (1) "Personnel" means an individual, regardless of whether the individual is licensed or
7 otherwise authorized by this state to practice a health care occupation or profession, who
8 provides health care services directly to patients or clients.

9 (2) "Rate" means the total amount that a temporary staffing agency charges to or re-
10 ceives from a person that engages the temporary staffing agency to assign personnel to the
11 person on a temporary basis.

12 (3)(a) "Temporary staffing agency" means an entity that operates in this state for the
13 purpose of providing temporary work to personnel providing health care services for or on
14 behalf of persons that engage the temporary staffing agency.

15 (b) "Temporary staffing agency" does not include:

16 (A) A personnel staff arrangement established by an entity solely for use by the entity,
17 or by any entity associated with the entity, and in which the only costs are salaries paid to
18 personnel;

19 (B) An individual who provides the individual's services on a temporary basis;

20 (C) An employment agency as defined in ORS 658.005;

21 (D) Home health agencies licensed under ORS 443.015;

22 (E) In-home care agencies licensed under ORS 443.315; or

23 (F) Home care workers and personal support workers listed on the home care registry
24 as defined in ORS 410.600.

25 **SECTION 2. (1) The Oregon Health Authority shall issue a temporary staffing agency li-**
26 **cense to an applicant that submits to the authority:**

27 (a) An application that includes the names and addresses of the applicant's officers and
28 directors and any other person that has ownership, partnership or a similar interest in the
29 applicant;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) For the purposes of conducting a state or nationwide criminal records check under
2 ORS 181A.195, the fingerprints of all individuals described in paragraph (a) of this subsection;

3 (c) Copies of the applicant's organizational documents, including but not limited to arti-
4 cles of incorporation and other relevant filings;

5 (d) Any other information requested by the authority; and

6 (e) A licensure fee.

7 (2) A license issued under this section is valid for one year and may be renewed. In order
8 to renew a license issued under this section, a temporary staffing agency shall submit to the
9 authority a renewal application that includes:

10 (a) Any changes to the information described in subsection (1)(a) or (c) of this section;

11 (b) Any other information requested by the authority; and

12 (c) A renewal fee.

13 (3) Every two years after the issuance of a license under subsection (1) of this section,
14 as a condition of license renewal, the authority shall require a temporary staffing agency to
15 provide to the authority the fingerprints described in subsection (1)(b) of this section for the
16 purpose of conducting updated state and national criminal records checks under ORS
17 181A.195.

18 **SECTION 3.** The Oregon Health Authority shall publish and maintain on a publicly
19 available website operated by or on behalf of the authority a list of temporary staffing
20 agencies licensed under section 2 of this 2022 Act.

21 **SECTION 4.** (1) A temporary staffing agency may not operate in this state without a li-
22 cense issued or renewed under section 2 of this 2022 Act.

23 (2) Each separate physical location of a temporary staffing agency must obtain a license
24 under section 2 of this 2022 Act.

25 **SECTION 5.** (1) A temporary staffing agency licensed under section 2 of this 2022 Act
26 shall:

27 (a) Ensure all personnel for which the temporary staffing agency procures or provides
28 temporary employment meet any professional authorization requirements established for the
29 practice or performance of the services provided by the personnel.

30 (b) Assign personnel to settings for which the personnel have the appropriate work ex-
31 perience and background to provide the services required by the specific setting.

32 (c) Retain records for at least 10 years in a manner that makes the records immediately
33 available to the Oregon Health Authority upon request of the authority.

34 (d) Meet any other requirements established by the authority by rule.

35 (2) Except as provided in section 6 of this 2022 Act, a temporary staffing agency licensed
36 under section 2 of this 2022 Act may not charge to or receive from a person that engages the
37 temporary staffing agency a rate greater than the rate established by the authority under
38 section 6 of this 2022 Act.

39 **SECTION 6.** (1)(a) The Oregon Health Authority shall adopt rules to establish maximum
40 rates that a temporary staffing agency licensed under section 2 of this 2022 Act may charge
41 to or receive from an entity that engages the temporary staffing agency. In adopting rules
42 under this paragraph, the authority shall consider at least industry standard personnel
43 hourly wages and relevant geographic factors.

44 (b) The authority may establish more than one rate under this subsection. The differ-
45 ences in rates may be based on factors including but not limited to geographic regions of this

1 state, personnel education and qualification and settings.

2 (c) The authority shall establish criteria under which a temporary staffing agency may
 3 apply to the authority to use a rate higher than the rates established under this subsection.

4 (2)(a) The authority shall adopt by rule lists of provisions that an agreement between a
 5 temporary staffing agency licensed under section 2 of this 2022 Act and a person that en-
 6 gages the temporary staffing agency:

7 (A) Must include; and

8 (B) May not include.

9 (b) The authority may adopt a template agreement that a temporary staffing agency may,
 10 but is not required to, use.

11 (3) The authority may adopt other rules as necessary to carry out sections 1 to 6 of this
 12 2022 Act.

13 **SECTION 7.** (1)(a) The Oregon Health Authority may impose on a temporary staffing
 14 agency, as defined in section 1 of this 2022 Act, a civil penalty not to exceed \$500 per day per
 15 violation of section 2, 4 or 5 of this 2022 Act or rules adopted under section 6 of this 2022
 16 Act. The authority shall consider as a separate violation each assignment of an individual
 17 personnel member in violation of section 5 (1) of this 2022 Act.

18 (b) Moneys from civil penalties imposed under this section shall be deposited in the State
 19 Treasury and credited to an account designated by the authority. The moneys described in
 20 this subsection are continuously appropriated to the authority for the administration of
 21 sections 1 to 6 of this 2022 Act.

22 (2) As used in this section, “personnel” has the meaning given that term in section 1 of
 23 this 2022 Act.

24 **SECTION 8.** ORS 658.015 is amended to read:

25 658.015. (1) ORS 658.005 to 658.245 do not apply to:

26 (a) Labor contractors subject to ORS 658.405 to 658.511; or

27 (b) A temporary staffing agency as defined in section 1 of this 2022 Act.

28 (2) ORS 658.005 to 658.245 do not apply to any nonprofit organization or corporation organized
 29 for the purpose of economic adjustment, civic betterment and the giving of professional guidance and
 30 placement to its members, when all of the following requirements are met:

31 (a) None of its directors, officers or employees are deriving any profit beyond a nominal salary
 32 for services performed on its behalf.

33 (b) Membership dues and fees are used solely for the maintenance of the organization or cor-
 34 poration.

35 (c) No fee is charged for employment services.

36 (d) On request of the Commissioner of the Bureau of Labor and Industries, the organization or
 37 corporation files with the commissioner, on or before the first day of April of each year, a copy of
 38 its constitution or articles of incorporation and its bylaws, together with a sworn statement setting
 39 forth its place of business; the names and addresses of its officers, directors and employees, the
 40 salaries they receive and the services they actually perform; and the various benefits furnished to
 41 its members.

42 (3) As used in subsection (2) of this section:

43 (a) “Civic betterment” means the promotion of the common good and general welfare of the
 44 people of this state or any political subdivision therein.

45 (b) “Economic adjustment” means the promotion of a program by which individuals are helped

1 to acquire new professional skills, add to their existing professional skills or change their type of
2 profession.

3 (4) ORS 658.005 to 658.245 do not apply to a bona fide labor organization of workers or a
4 nonprofit organization or corporation that has been formed in good faith for the regulation, pro-
5 motion and advancement of the general professional interests of its members and that incidentally
6 maintains a placement service principally engaged in securing employment for such members.

7 **SECTION 9. (1) A temporary staffing agency may not charge to or receive from a person**
8 **that engages the temporary staffing agency to assign personnel to the person for work on a**
9 **temporary basis an amount that is 15 percent or more greater than the total amount the**
10 **temporary staffing agency charged to or received from the person, or a similarly situated**
11 **person, as of January 1, 2021.**

12 (2) As used in this section, “personnel” means an individual, regardless of whether the
13 individual is licensed or otherwise authorized by this state to practice a health care occupa-
14 tion or profession, who provides health care services directly to patients or clients.

15 **SECTION 10. Section 9 of this 2022 Act is repealed on January 2, 2023.**

16 **SECTION 11. (1) Sections 1 to 7 of this 2022 Act and the amendments to ORS 658.015 by**
17 **section 8 of this 2022 Act become operative on January 1, 2023.**

18 (2) The Oregon Health Authority may take any action before the operative date specified
19 in subsection (1) of this section that is necessary to enable the authority to exercise, on and
20 after the operative date specified in subsection (1) of this section, all of the duties, functions
21 and powers conferred on the authority by sections 1 to 7 of this 2022 Act and the amend-
22 ments to ORS 658.015 by section 8 of this 2022 Act.

23 **SECTION 12. This 2022 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect**
25 **on its passage.**