

Sixty-fourth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1455**

Introduced by

Representatives D. Anderson, B. Anderson, Hofstad, Kreidt, J. Nelson

Senator O'Connell

1 A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century  
2 Code, relating to nurse staffing agencies.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 23 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Nurse staffing agencies - Generally.**

7 A nurse staffing agency operates with the purpose of rendering temporary nursing services  
8 or related nurse aide services within this state. A person may not operate, or hold themselves  
9 out to operate a nurse staffing agency unless licensed under this chapter.

10 **License required - Licensing of nurse staffing agencies.**

11 The state department of health shall license nurse staffing agencies. A nurse staffing  
12 agency must develop and implement policies and procedures in accordance with this chapter. A  
13 nurse staffing agency shall comply with all state and federal laws regarding employee  
14 compensation, taxes, overtime, and workers compensation. A person or entity operating as a  
15 nurse staffing agency must submit an application for licensure with the state department of  
16 health or cease operation. An applicant for licensure must submit:

- 17 1. An annual fee of two thousand dollars;  
18 2. A completed application as determined by the state department of health;  
19 3. The name and address of the person or entity applying for licensure;  
20 4. The names and addresses of all supervisors and managers of the nurse staffing  
21 agency;  
22 5. Proof of professional malpractice insurance in the amount of:  
23 a. At least one million dollars per occurrence; and  
24 b. At least three million dollars in the aggregate.

- 1       6. Proof of general liability insurance covering personal property damages and bodily  
2       injury in the amount of:
  - 3       a. At least one million dollars per occurrence; and  
4       b. At least three million dollars in the aggregate.
- 5       7. A list of all other states in which the nurse staffing agency operates;
- 6       8. Any additional information deemed necessary by the state department of health; and
- 7       9. In addition to the requirements in this section, a corporate applicant must submit the  
8       following:
  - 9       a. A copy of the articles of incorporation;  
10       b. A copy of the corporate bylaws; and  
11       c. The names and addresses of current officers, directors, and shareholders who  
12       own more than ten percent of corporation.

13       **Standards for operation.**

- 14       1. A nurse staffing agency within this state may not operate unless the operation is  
15       licensed in accordance with this chapter and rules adopted by the state department of  
16       health. The rules must include:
  - 17       a. Personnel:
    - 18           (1) Each nurse and nurse assistant placed by the agency must be an employee  
19           of the nurse staffing agency;
    - 20           (2) Each nurse and nurse assistant must undergo an annual evaluation by a  
21           licensed and registered nurse who is an employee of the nurse staffing  
22           agency, and who must submit the evaluation to the state department of  
23           health;
    - 24           (3) Each nurse staffing agency must have a written personnel policy that is  
25           provided to each employee;
    - 26           (4) Each nurse staffing agency policy must include provisions for orientation,  
27           training on an annual basis, and competency evaluations on an annual  
28           basis;
    - 29           (5) Each nurse staffing agency shall maintain personnel records which include:
      - 30               (a) The current or previous name, address, and social security number of  
31               each employee;

- (b) A copy of the current license of each employee including a certification or registration number for all states in which the employee is currently or was previously licensed;
- (c) A copy of current CPRcardio-pulmonary resuscitation certification;
- (d) A current resume, educational history, prior employment history with verification, training certificates acquired, references with verification, and proof of attendance at orientation, training, and seminars;
- (e) Criminal background check of each employee;
- (f) Results of all competency testing;
- (g) A position description for each employee;
- (h) Copies of performance evaluations for each employee;
- (i) Copies of any disciplinary action taken against an employee;
- (j) Documentation of immunizations by each employee; and
- (k) Documentation of all drug testing results.

(6) Each nurse staffing agency shall ensure that each individual under its employ meets licensing, training, and orientation standards.

b. Each nurse staffing agency must develop and implement policies and procedure for complaint, incident, and disciplinary reporting including:

- (1) Receiving, recording, and investigating complaints and incidents;
- (2) Informing the individual facility of any complaints filed against it; and
- (3) Reporting information to the state department of health which may be grounds for action under the nurse practice act or nurse aide registry.

2. A nurse staffing agency shall permit officials of the state department of health to enter the premises upon the presentation of proper identification. The state department of health may conduct an investigation and take the following action to determine whether an applicant or licensee is in compliance with this chapter:

- a. Inspection of a nurse staffing agency, including a review of all records;
- b. Interviews with an applicant, licensee, or employee of a nurse staffing agency;  
and
- c. Any other action deemed necessary by the state department of health.

- 1       3.   The state department of health may refuse to issue, refuse to renew, revoke, or  
2           suspend the license of a nurse staffing agency which refuses to allow an official of the  
3           state department of health to enter the premises or conduct a full investigation.

4       **Enforcement by the state department of health.**

5       The state department of health may refuse to issue, refuse to renew, revoke, or suspend a  
6 nurse staffing agency license for the following reasons:

- 7       1.   Willful submission or use of false or misleading information in connection with an  
8           application for or with the use of a license;  
9       2.   Violation of any provisions of this chapter, the rules as determined by the state  
10           department of health, or any state or federal law applicable to nurse staffing agencies  
11           operating in this state;  
12       3.   Failure to meet or maintain the standards of operation as determined by this chapter  
13           or the state department of health;  
14       4.   Failure to allow inspection or access to records by officials of the state department of  
15           health as provided by this chapter;  
16       5.   Failure to comply with any lawful order of the state department of health pursuant to  
17           this chapter;  
18       6.   Any act that constitutes a threat to the health or safety of the general public;  
19       7.   A felony conviction by the nurse staffing agency or one of its employees; or  
20       8.   Insufficient financial or other resources required to operate a nurse staffing agency in  
21           accordance with this chapter.

22       **Complaint System.**

23       The state department of health shall establish a system for reporting complaints against a  
24 nurse staffing agency or its employees.

25       **Restriction of Employment.**

- 26       1.   A nurse staffing agency may not restrict the employment opportunities of its  
27           employees.  
28       2.   A nurse staffing agency may not require any payment or employment fee from a health  
29           care facility which decides to permanently hire an employee of the nurse staffing  
30           agency.

1        3. An employee of a nurse staffing agency who is placed with a health care facility is an  
2        employee of the nurse staffing agency and is not an independent contractor.

3        **Responsibilities of health care facility.**

4        A health care facility is responsible for orientating and supervising any nurse staffing agency  
5        employee assigned to its facility. The health care facility shall report any concerns regarding the  
6        competency of a nurse staffing agency employee to the supervising registered nurse or owner  
7        of the nurse staffing agency.

8        **Notification by staffing agency.**

9        A nurse staffing agency shall notify the health care facility in advance of the names and  
10       qualifications of the employees assigned to the health care facility.

11       **Fees to health care facility.**

12       The nurse staffing agency shall provide the health care facility with a written copy of all fees  
13       owed within thirty days of the billing period.