

Introduced by

Legislative Management

(Health Care Committee)

1 A BILL for an Act to create and enact chapter 23-17.8 of the North Dakota Century Code,  
2 relating to nursing services agencies; and to provide an effective date.

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

4 **SECTION 1.** Chapter 23-17.8 of the North Dakota Century Code is created and enacted as  
5 follows:

6 **23-17.8-01. Definitions.**

7 As used in this chapter:

8 1. "Department" means the department of health and human services.

9 2. "Health care facility" means an office or institution at which health care services are  
10 provided. The term includes a hospital; clinic; ambulatory surgery center; outpatient  
11 care facility; nursing home; nursing, basic, long-term, or assisted living facility;  
12 laboratory; and office of any health care provider.

13 3. "Licensed practical nurse" has the meaning provided in section 43-12.1-02.

14 4. "Nurse" has the meaning provided in section 43-12.1-02.

15 5. "Nursing services agency" or "agency" means an individual, firm, corporation, limited  
16 liability company, partnership, or association engaged for hire in the business of  
17 providing or procuring temporary services in health care facilities for nurses, licensed  
18 practical nurses, nursing assistants, nurse aids, and orderlies. The term does not  
19 include an individual only engaging in providing the individual's services on a  
20 temporary basis to health care facilities.

21 **23-17.8-02. License required - Rules.**

22 1. A nursing services agency may not operate without a license issued by the  
23 department.

24 2. The department shall adopt rules necessary to implement this chapter.

1       **23-17.8-03. Application information and fee.**

- 2       1. The department shall establish forms and procedures for processing an application for  
3       a nursing services agency license. An application must include:
- 4       a. The name and address of the owner or owners of the agency;  
5       b. If the owner is a corporation, a copy of its articles of incorporation, current  
6       bylaws, and names and addresses of its officers, directors, and shareholders who  
7       own more than ten percent of the corporation;  
8       c. If the owner is a limited liability company, a copy of its articles of organization,  
9       operating agreement, and names and addresses of its officers and directors;  
10      d. The names and addresses of all supervisors and managers of the agency;  
11      e. Satisfactory proof of compliance with section 23-17.8-04;  
12      f. A policy or procedure that describes how the agency's records will be made  
13      available to the department upon request;  
14      g. Proof of professional malpractice insurance in the amount of:  
15          (1) At least one million dollars per occurrence; and  
16          (2) At least three million dollars in the aggregate;  
17      h. Proof of general liability insurance covering personal property damage and bodily  
18      injury in the amount of:  
19          (1) At least one million dollars per occurrence; and  
20          (2) At least three million dollars in the aggregate;  
21      i. A list of all other states in which the agency operates; and  
22      j. Any information deemed necessary by the department.
- 23      2. An applicant shall submit with the application a nonrefundable application fee of two  
24      thousand dollars to the department. If a license is issued, the application fee shall  
25      satisfy the nursing services agency's first year's annual licensure fee in accordance  
26      with section 23-17.8-04.

27      **23-17.8-04. Standards for operation - Annual fee.**

28      A nursing services agency shall:

- 29      1. Develop and implement policies and procedures in accordance with this chapter and  
30      comply with all state and federal laws regarding compensation, taxes, overtime, and  
31      workers compensation;

- 1       2. Update contact information with the department as needed;
- 2       3. Document that each employee or independent contractor provided to a health care
- 3       facility meets the minimum licensing, training, and continuing education standards for
- 4       the position in which the individual will be working;
- 5       4. Document that each individual provided to a health care facility is an employee or
- 6       independent contractor of the agency;
- 7       5. Ensure each employee or independent contractor undergoes an annual evaluation by
- 8       a licensed and registered nurse who is an employee of the agency, and submit that
- 9       evaluation to the department;
- 10      6. Develop and provide to each employee or independent contractor a written personnel
- 11      policy;
- 12      7. Maintain an agency policy that includes provisions for orientation, ongoing training,
- 13      and an annual competency evaluation;
- 14      8. Maintain a personnel record for each employee or independent contractor, including:
- 15      a. Name, address, and social security number;
- 16      b. A copy of the individual's license, including a certification or registration number
- 17      for each state in which the individual is or was previously licensed;
- 18      c. A copy of the individual's cardiopulmonary resuscitation certification;
- 19      d. A resume, educational history, prior employment history with verification, training
- 20      certificates acquired, references with verification, and proof of attendance at
- 21      orientation, training, and seminars;
- 22      e. Results of a criminal history record check;
- 23      f. Results of all competency testing;
- 24      g. A position description;
- 25      h. Copies of performance evaluations;
- 26      i. Copies of any disciplinary action taken against the individual;
- 27      j. Documentation of immunizations; and
- 28      k. Results of all drug testing;
- 29      9. Develop and implement policies and procedures for complaint, incident, and
- 30      disciplinary reporting, including:
- 31      a. Receiving, recording, and investigating complaints and incidents;

- 1           b. Informing the health care facility of any complaints filed against the agency; and
- 2           c. Reporting information to the department which may be grounds for action under
- 3           the nurse practices act or nurse aide registry;

4       10. Permit officials of the department to enter the premises upon presentation of proper  
5       identification for the purpose of conducting an investigation to determine whether an  
6       applicant or licensee is in compliance with this chapter, to include:

- 7           a. Inspection of a nursing services agency, including a review of all records;
- 8           b. Interviews with an applicant, licensee, or any employee or independent
- 9           contractor of the nursing services agency; and
- 10          c. Any other action deemed necessary by the department; and

11       11. Submit an annual nonrefundable licensure fee of two thousand dollars to the  
12       department.

13       **23-17.8-05. Enforcement.**

14       The department may refuse to issue, refuse to renew, revoke, or suspend the license of a  
15 nursing services agency for the following reasons:

- 16       1. Refusing to allow an official of the department to enter the premises or conduct a full
- 17       investigation in accordance with section 23-17.8-04;
- 18       2. Willful submission or use of false or misleading information in connection with an
- 19       application for or with the use of a license;
- 20       3. Violation of any provision of this chapter, or any state or federal law or rule applicable
- 21       to nursing services agencies operating in this state;
- 22       4. Failure to meet or maintain the standards of operation as determined by this chapter
- 23       or the department;
- 24       5. Failure to comply with any lawful order of the department under this chapter;
- 25       6. Any act that constitutes a threat to the health or safety of the general public;
- 26       7. A felony conviction by the nursing services agency's owner, or one of its employees or
- 27       independent contractors; or
- 28       8. Insufficient financial or other resources required to operate a nursing services agency
- 29       in accordance with this chapter.

1        **23-17.8-06. Complaint system.**

2        The department shall establish a system for recording, reporting, and investigating  
3 complaints against a nursing services agency, or its employees or independent contractors.  
4 Complaints may be made by any member of the public.

5        **23-17.8-07. Restriction of employment.**

6        A nursing services agency may not:

- 7        1. Restrict the employment opportunities of its employees or independent contractors; or  
8        2. Require any payment or fee from a health care facility which decides to permanently  
9        hire an employee or independent contractor of a nursing services agency.

10       **23-17.8-08. Responsibilities of nursing services agencies - Notice and fees.**

11       A nursing services agency shall:

- 12       1. Notify the health care facility in advance of the name and qualifications of any  
13       employee or independent contractor assigned to the health care facility; and  
14       2. Provide the health care facility with a written copy of all fees owed within thirty  
15       calendar days of billing.

16       **23-17.8-09. Responsibilities of health care facility.**

17       A health care facility shall:

- 18       1. Orient and supervise each nursing services agency employee or independent  
19       contractor assigned to the facility; and  
20       2. Report any concerns regarding the competency of a nursing services agency  
21       employee or independent contractor to the supervising registered nurse or owner of  
22       the nursing services agency.

23       **23-17.8-10. Penalty.**

24       A person that violates a provision of this chapter or a rule adopted under this chapter may  
25 be assessed a civil penalty not to exceed one thousand dollars for each violation and for each  
26 day the violation continues, plus interest and any costs incurred by the department to enforce  
27 this penalty. The civil penalty may be imposed by a court in a civil proceeding or by the  
28 department through an administrative hearing under chapter 28-32. The assessment of a civil  
29 penalty does not preclude the imposition of other sanctions authorized by rules adopted under  
30 this chapter.

31       **SECTION 2. EFFECTIVE DATE.** This Act becomes effective on January 1, 2026.