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## Substitute Bill Comparative Synopsis

### Sub. H.B. 466

### 134<sup>th</sup> General Assembly

House Commerce and Labor

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (I_134_1987-2, As Pending in H. Commerce & Labor)	Latest Version (I_134_2082-3)
<b>Health care staffing agency definition</b>	
<p>No provision.</p> <p>Provides that a health care staffing agency does not include (1) a person who provides health care personnel for health care providers on an occasional or periodic basis and (2) professional associations of licensed health care professionals <i>(R.C. 3724.01(C)(2) and (4))</i>.</p>	<p>Adds to the definition of “health care staffing agency” an “online health care staff matching service,” which is a person that operates or offers an electronic platform on which health care personnel may be listed as available to serve as temporary staff for health care providers <i>(R.C. 3724.01(D) and (E))</i>.</p> <p>No provision (i.e., those persons and professional associations are not exempt from being considered health care staffing agencies under the bill).</p>

Previous Version (I_134_1987-2, As Pending in H. Commerce & Labor)	Latest Version (I_134_2082-3)
<b>Maximum rate provisions</b>	
<p>Prohibits a health care staffing agency from billing or receiving payments for health care personnel listed in the Medicaid cost reports for nursing facilities at a rate higher than 120% of the direct care median hourly wage for that category of personnel for the peer group county in which the provider is located. Requires the Department of Medicaid to calculate and publish direct care median hourly wages; and authorizes the Medicaid Director to establish median hourly wages for any category of personnel not reported in the costs reports. (R.C. 3724.09(A) and (B).)</p> <p>Requires the maximum rate established pursuant to the bill to include all charges for administrative fees, contract fees, and other charges in addition to the hourly rate of the health care personnel (R.C. 3724.09(A)(2)).</p>	<p>Generally the same, except as follows:</p> <ul style="list-style-type: none"> <li>▪ Prohibits a rate that is higher than 150% of the <i>statewide</i> direct care median hourly wage for that category of personnel, multiplied by an estimated rate of inflation;</li> <li>▪ Requires the Department of Medicaid to estimate the rate of inflation based on information published by the U.S. Bureau of Labor Statistics;</li> <li>▪ Regarding establishing the maximum rate, also requires consideration of cost reports submitted by ICF/IID providers under existing law (R.C. 3724.09(A)(1) and (3)).</li> </ul> <p>Same, but also specifies that it includes shift bonuses (R.C. 3724.09(A)(2)).</p>
<b>Health care provider provisions</b>	
<p>Includes hospitals in the definition of “health care provider,” thus making a business that provides health care personnel to hospitals a type of business that must register as a health care staffing agency under the bill (R.C. 3724.01(B)(1)).</p>	<p>No provision (i.e., a business that provides health care personnel to hospitals only, and not to other health care providers listed in the bill, is not required to register under the bill).</p>
<b>Health care staffing agency requirements and prohibitions</b>	
<p>Requires criminal records checks for owners, managers, officers, directors, and members of administrative staff of health care staffing agencies (R.C. 3724.07(A) and (B)).</p>	<p>No provision.</p>

Previous Version (I_134_1987-2, As Pending in H. Commerce & Labor)	Latest Version (I_134_2082-3)
Requires health care staffing agencies to require employees to behave in conformance with the federal Drug Free Workplace Act <i>(R.C. 3724.07(C))</i> .	Instead, requires health care staffing agencies to verify health care personnel provided to health care providers meet drug testing requirements of the provider <i>(R.C. 3724.07(A)(4)(e))</i> .
No provision.	Requires health care staffing agencies to ensure that when the agency provides health care personnel to a health care provider for a specific shift or time period, the personnel or a substitute works for the agreed time period at no additional charge to the provider <i>(R.C. 3724.07(A)(1))</i> .
Requires health care staffing agencies to verify and maintain supporting documentation that health care personnel, at the time of placement, meet (1) minimum licensing, training, and continuing education standards for the position, (2) criminal records check requirements of the health care provider, and (3) health care provider requirements for employees <i>(R.C. 3724.07(F))</i> .	Same, but also requires health care staffing agencies to furnish the supporting documentation to a health care provider on request. Adds staffing agency verification requirements regarding reviewing registries of persons with findings of abuse and neglect and determining whether exclusions from Medicare or Medicaid exist. <i>(R.C. 3724.07(A)(4)(c) and (d).)</i>
No provision.	Prohibits health care staffing agencies from attempting to require a health care provider to waive any of the bill's requirements or provisions; states that any such waivers are void <i>(R.C. 3724.07(B))</i> .
Requires health care staffing agencies to notify the Director of Health of certain banking and other information related to employee income tax withholdings <i>(R.C. 3724.09(C))</i> .	No provision.
No provision.	Prohibits a controlling person of a health care staffing agency from being eligible for a registration for five years if the person's registration is terminated for failure to renew or is revoked <i>(R.C. 3724.10(F))</i> .

Previous Version (I_134_1987-2, As Pending in H. Commerce & Labor)	Latest Version (I_134_2082-3)
No provision.	Defines “controlling person” as a business entity, officer, program administrator, or director whose responsibilities include directing the management or policies of a health care staffing agency, and any individual who directly or indirectly owns an interest in such a business entity ( <i>R.C. 3724.01(A)</i> ).
<b>Discipline and fines</b>	
Requires the following disciplinary action: the Director of Health must revoke a health care staffing agency’s registration if the agency violates any of the bill’s provisions more than three times in a registration period or if the agency interferes with a survey or inspection; the Director must suspend or refuse to issue a registration if an agency fails to make records available during business hours ( <i>R.C. 3724.10(B)</i> ).	Requires disciplinary action for the following reasons: lack of financial solvency or suitability; inadequate treatment and care or criminal activity by health care personnel or any person managing a health care staffing agency; interference with surveys or inspections; failure to comply with conditions or requirements that must be met to obtain and retain a registration; and failure to comply with other requirements of the bill. Also, requires the Director of Health to revoke the registration of a health care staffing agency that knowingly provides health care personnel with illegal or fraudulent diplomas, licenses, criminal records checks, or other items required for employment ( <i>R.C. 3724.10(B) and (C)</i> ).
Requires a health care staffing agency that violates the bill’s provisions to be fined \$1,000 for each day that the offense continues ( <i>R.C. 3724.10(C)(1)</i> ).	No provision.
<b>Rulemaking and implementation</b>	
Requires the Director of Health to adopt rules regarding registration application and renewal forms and procedures and reasons for which disciplinary action may be imposed ( <i>R.C. 3724.02(B), 3724.05, 3724.10(A) and 3724.13</i> ).	Instead, requires the Director of Health to establish application and renewal forms and procedures, but does not require it be through rules; specifies reasons for disciplinary action, discussed above ( <i>R.C. 3724.02(B), 3724.05, and 3724.10(B)</i> ).

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No provision.	Authorizes the Director of Health to begin implementing the bill's registration and other requirements before adopting rules ( <i>Section 6</i> ).
<b>Renewals</b>	
No provision.	Specifies that an application for registration renewal must include a description of changes to application information since the applicant applied for the registration ( <i>R.C. 3724.05(C)</i> ).
No provision.	Provides for a late fee of \$200 if a renewal applicant does not pay the renewal fee in the month of the renewal date. Authorizes the Director of Health to revoke an agency's registration if the renewal fee and any late fee are not paid by the 30 <sup>th</sup> day after the renewal date. ( <i>R.C. 3724.05(D)</i> .)
<b>Causes of action</b>	
Authorizes employees of health care staffing agencies and health care providers to sue health care staffing agencies for violations of the bill's provisions, and provides for awards of actual damages, punitive damages, and attorney's fees ( <i>R.C. 3724.15</i> ).	No provision.