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# State of Louisiana

Louisiana Department of Health

## MEMORANDUM

**TO: LOUISIANA LICENSED HEALTHCARE FACILITIES**

**FROM: TASHEKA DUKES, RN**  
**Deputy Assistant Secretary**  
**LDH Health Standards Section**

**RE: NURSE STAFFING AGENCIES**

**DATE: May 3, 2024**

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This memorandum serves as a follow-up to the memorandum issued by the Louisiana Department of Health (LDH) on December 20, 2023 as it relates to the staffing of nurses and/or certified nurse aides (CNAs) in Louisiana licensed healthcare facilities supplied by staffing agencies, and to clarify the requirements of La. R.S. 40:2120.11 et. seq.

Pursuant to La. R.S. 40: 2120.14, no person, partnership, corporation, unincorporated association, or other legal entity may establish, operate, maintain, or advertise as a nurse staffing agency (NSA) in this state unless the person, partnership, corporation, unincorporated association, or other legal entity is licensed by the department. Furthermore, La. R.S. 40:2120.13, defines "nurse staffing agency" as follows:

*"Nurse staffing agency"- any person, partnership, corporation, unincorporated association, or other legal entity that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. However, "nurse staffing agency" expressly does not include the following:*

*(a) A nurse staffing agency that solely provides services in Louisiana under a contract or other agreement with the state of Louisiana, or any executive branch department or agency thereof, as*

*a result of a declared disaster, emergency, or public health emergency.*

*(b) The federal or state government department or agency that provides nursing staff or certified nurse aides to any health care provider setting, evacuation site, or shelter location as a result of a declared disaster, emergency, or public health emergency.*

The aforementioned statute also defines "healthcare facility" as follows:

*"Healthcare facility" means any person, partnership, corporation, unincorporated association, or other legal entity licensed pursuant to La. R.S. 40:2006(A)(2) and operating or planning to operate within the state.*

La. R.S. 40:2006(A)(2) provides the list of licensed healthcare facilities which are subject to compliance with the NSA statutes as follows:

- (a) Adult day health care facility.*
- (b) Behavioral health services provider.*
- (c) Ambulatory surgery center.*
- (d) Case management provider.*
- (e) Urine drug screening provider.*
- (f) Home health agency.*
- (g) Hospice.*
- (h) Hospital.*
- (i) Nursing home.*
- (j) Rural health clinic.*
- (k) Intermediate care facility for people with developmental disabilities (ICF/DD).*
- (l) End stage renal disease facility.*
- (m) Outpatient abortion facility.*
- (n) Psychiatric residential treatment facility.*
- (o) Children's respite care center.*
- (q) Pediatric day health care facility.*
- (q) Pediatric day health care facility.*

*NOTE: The implementation of Subparagraph (A)(2)(r), as enacted by Acts 2017, No. 417, §1, shall only become effective in the event a specific appropriation by the legislature is made for such purposes and the program receives approval by the Centers for Medicare and Medicaid Services. See Acts 2017, No. 417, §2.*

- (r) Community-based care facility.*
- (s) Free-standing birth center.*

In addition to the requirements in statute, licensing regulations have been published for Hospitals, Adult Day Health Care facilities, and Home Health agencies providing that all registered nurses, licensed practical nurses, and/or certified nurse aides supplied by staffing agencies, shall be provided through licensed nurse staffing agencies. Licensing regulations for other licensed healthcare will be revised to reflect similar language.

A NSA licensing rule Potpourri was issued on April 23, 2024 which added regulatory definitions for “referral” and “healthcare technology platform,” as follows:

*Referral—the act of sending or directing the registered nurse, licensed practical nurse, or certified nurse aide to a healthcare facility to provide healthcare services at the request of or for the benefit of the healthcare facility.*

*Healthcare Technology Platform—includes an individual, a trust, a partnership, a corporation, a limited liability partnership or company, or any other business entity that develops and operates, offers, or maintains a system or technology that provides an internet-based or application based marketplace through which an individual as an independent contractor, and in the individual’s sole discretion, chooses when and how often to utilize the platform to select open shifts posted only by a healthcare facility or nurse staffing agency. Healthcare technology platforms neither employs nor contracts with registered nurses, licensed practical nurses, or certified nurse aides to provide healthcare services in a healthcare facility.*

A public hearing on the aforementioned substantive changes to the NSA licensing regulations is scheduled for May 28, 2024 at LDH. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is May 30, 2024 at 4:30 p.m.

In accordance with current NSA licensing regulations at LAC Tit. 48.I. 7701 B., any person, partnership, corporation, unincorporated association, or other legal entity operating an agency that meets the definition of a Nurse Staffing Agency shall submit an initial licensing application and fee to the

department within 90 days of the promulgation of the initial Nurse Staffing Agency licensing rules. However, LDH will allow additional time for licensed healthcare facilities to come into compliance with the requirements for utilization of licensed NSAs for nurse and CNA staffing.

**LDH will now allow until July 1, 2024, for licensed healthcare facilities who utilize nurses and CNAs referred from NSAs to ensure that all such staff are referred from Louisiana licensed NSAs. After such time, LDH will begin enforcement action consistent with law and regulations for all NSAs operating without an LDH issued license, and to all licensed healthcare facilities who utilize nurses and CNAs referred from unlicensed NSAs.**

A list of all licensed NSAs can be found at the website provided below. The list is updated monthly.

<https://ldh.la.gov/index.cfm/directory/category/474>

As a reminder, in accordance with La. R.S. 40: 2120.14, no person, partnership, corporation, unincorporated association, or other legal entity may establish, operate, maintain, or advertise as a nurse staffing agency in this state unless the person, partnership, corporation, unincorporated association, or other legal entity is licensed by the department. Further, in accordance with La. R.S. 40:2120.22, if a person, partnership, corporation, unincorporated association, or other legal entity is operating a nurse staffing agency without a license issued by the department, the department may have the authority to issue an immediate cease and desist order to that person, partnership, corporation, unincorporated association, or other legal entity. Any such agency receiving a cease and desist order from the department shall immediately cease operations until such time that the agency is issued a license by the department. The department shall seek an injunction in the Nineteenth Judicial District Court against any person, partnership, corporation, unincorporated association, or other legal entity operating an agency that receives a cease and desist order from the department and that does not cease operations immediately. Any such person, partnership, corporation, unincorporated association, or other legal entity operating an agency against which an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

DocuSigned by:

*Tasheka Dukes*

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Tasheka Dukes, RN

Deputy Assistant Secretary, Health Standards

Louisiana Department of Health