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CHAPTER 331
OREGON HEALTH AUTHORITY
HEALTH LICENSING OFFICE

FILING CAPTION: Rules outline the Temporary Staffing Agency Program , which was mandated by Senate Bill 1549 (2022).

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RULES:
331-960-0000, 331-960-0005, 331-960-0010, 331-960-0015, 331-965-0000, 331-965-0005, 331-965-0010, 331-965-0015, 331-965-0020, 331-970-0000, 331-970-0005, 331-970-0010, 331-975-0000, 331-975-0005

ADOPT: 331-960-0000

RULE TITLE: DEFINITIONS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: These are the definitions for terms used in the Temporary Staffing Agency authorization program.

RULE TEXT:
The following definitions apply to OAR 331-960-0000 to OAR 331-975-0005:
(1) “Authorization holder” means a temporary staffing agency that has been issued an authorization to operate in Oregon.
(2) “Client entity” means an entity that engages a temporary staffing agency to provide personnel to the client entity to provide health care services or assistance with activities of daily living to clients, patients, or residents for the client entity.
(3) “Office” means the Health Licensing Office.
(4) “Personnel” means an individual assigned to a client entity by a temporary staffing agency who provides health care services or assistance with activities of daily living to clients, patients, or residents for the client entity.
(5) “Physical location” means any physical office location of a temporary staffing agency that provides personnel to an Oregon client entity. An office location is not a physical location when the work being performed at that office location does not involve providing personnel to an Oregon client entity.
(6) “Professional authorization” means any licensure, registration, authorization, or any other requirement needed for personnel to practice or perform the health care services or assistance with activities of daily living to clients, patients, or residents on or behalf of client entities.
(7) “Temporary staffing agency” means an entity that operates in Oregon for the purpose of providing temporary work to personnel providing health care services or assistance with activities of daily living for or on behalf of client entities.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-960-0005

RULE TITLE: FEES

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Fees that applicants seeking a Temporary Staffing Agency Program authorization will have to pay.

RULE TEXT:

(1) An applicant or authorization holder is subject to the provisions of OAR 331-010-0000, OAR 331-010-0010, and OAR 331-010-0020, regarding the payment of fees, penalties, and charges.

(2) Fees are as stated as follows or the amount approved by the Legislative Assembly as part of the approval of the budget for the TSA program:

(a) Application: $250

(b) Authorization: $2,000

(c) Renewal: $1,500 – valid for one licensure year

(d) Fingerprints for each officer, director, persons with ownership, partnership, or similar interest in the temporary staffing agency: $50

(e) Authorization replacement: $25

(f) Late fee: $500 for each year of inactive status up to three years

(g) Administrative fee: $25

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-960-0010

RULE TITLE: PUBLISHED LIST OF AUTHORIZED TSAS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Temporary staffing agencies that have authorizations will be in a database that is available to the public.

RULE TEXT:
The Office will enter all temporary staffing agencies that hold authorizations and their status into its licensure database, which is available to the public.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-960-0015

RULE TITLE: EXEMPTIONS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Individuals and companies that do not need to get a Temporary Staffing Agency Program authorization.

RULE TEXT:

Entities that are not considered temporary staffing agencies for the purposes of licensing by the Office are:

(1) A staff arrangement established by an entity solely for use by the entity, or by any entity associated with the entity, and in which the only costs are salaries paid to individuals who perform work.

(2) An individual who provides the individual's services on a temporary basis.

(3) An employment agency as defined in ORS 658.005.

(4) Home health agencies licensed under ORS 443.015.

(5) In-home care agencies licensed under ORS 443.315.

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

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-965-0000

RULE TITLE: TEMPORARY STAFFING AGENCIES

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Rule outlines the requirements for temporary staffing agencies operating in Oregon.

RULE TEXT:

(1) No temporary staffing agency may operate in Oregon without an authorization.

(2) A temporary staffing agency must:

(a) Obtain a separate authorization for each physical location.

(b) Register with the Oregon Secretary of State, Corporation Division, to conduct business in Oregon.

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

(d) Assign personnel to settings for which the personnel have the appropriate work experience and background to provide the services required by the setting.

(e) Retain records, as provided for in OAR 331-970-0010, for at least 10 years.

(f) Make records available to the Office immediately upon request.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-965-0005

RULE TITLE: AUTHORIZATION APPLICATION REQUIREMENTS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Application requirements for temporary staffing agencies seeking an authorization from the Health Licensing Office.

RULE TEXT:

(1) Initial authorizations are subject to the provisions of OAR Chapter 331, Division 30 regarding the issuance of a license, provisions regarding identification, and requirements for issuance of a duplicate authorization.

(2) A temporary staffing agency applying for an authorization must:

(a) Meet the requirements of OAR 331, Division 30.

(b) Submit a completed application form as prescribed by the Office, that includes:

(A) The names and addresses of the applicant's officers and directors and any other person that has ownership, partnership, or a similar interest in the applicant.

(B) Copies of the applicant's organization documents, including articles of incorporation and other relevant filings.

(C) Proof of registration with Oregon Secretary of State, Corporation Division.

(D) Proof that all officers, directors, persons with ownership, partnership or similar interest in the temporary staffing agency pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004.

(3) Submit any additional information requested by the Office.

(4) Pay all fees.

(5) Applications not completed within 90 days of submission will be deemed incomplete and will be closed. Application fees are nonrefundable.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-965-0010

RULE TITLE: AUTHORIZATION ISSUANCE

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Rule outlines the details of a Temporary Staffing Agency Program authorization.

RULE TEXT:

(1) Authorizations become not current on the last day of the month, one year from the date of issuance, and are inactive.

(2) If a temporary staffing agency's authorization is in inactive status, the temporary staffing agency cannot operate in Oregon.

(3) An authorization that has been inactive for more than three years is expired and cannot be renewed. If a temporary staffing agency's authorization is expired, the temporary staffing agency must apply for an initial authorization and meet the current requirements.

(4) The authorization must be kept on file and made available upon request.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-965-0015

RULE TITLE: NOTIFICATION REQUIREMENTS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Temporary staffing agencies with the authorization from the Health Licensing Office must notify the Office within 30 days if this information changes.

RULE TEXT:

(1) A temporary staffing agency with an authorization must notify the Office within 30 days of any change in:

(a) The officers, directors, persons with ownership, partnership, or similar interest in the temporary staffing agency; or

(b) The physical location of a temporary staffing agency.

(2) Any changes made under (1)(a) of this section must be accompanied by a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004 and the $50 fingerprint fee.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-965-0020

RULE TITLE: AUTHORIZATION RENEWAL

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: How to renew a Temporary Staffing Agency Program authorization.

RULE TEXT:

(1) Authorization renewals are subject to the provisions of OAR Chapter 331, Division 30 regarding the renewal of a license.

(2) To renew an authorization, an authorization holder must:

(a) Submit a completed renewal application form as prescribed by the Office.

(b) Submit any additional information or forms as requested by the Office.

(c) Provide changes to names or addresses of the temporary staffing agencies officers, directors, persons with ownership, partnership, or similar interest in the authorization.

(d) Provide changes in organizational structure and copies of any organizational documents relevant to that change.

(e) Pay all fees.

(3) Every two years after the issuance of an authorization, as a condition of authorization renewal, a temporary staffing agency must have all officers, directors, persons with ownership, partnership or similar interest in the authorization pass a fingerprint-based nationwide criminal records check pursuant to OAR 331-030-0004.

(4) Background checks related to (4) of this section must be submitted 60 days prior to authorization becoming not current – inactive status.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-970-0000

RULE TITLE: PROFESSIONAL AUTHORIZATION REQUIREMENTS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Temporary staffing agencies with an authorization must follow this rule regarding sending personnel into healthcare settings.

RULE TEXT:

When a client entity is seeking personnel for a position that requires professional authorization, the authorization holder must verify:

(1) The personnel have the required professional authorization needed to perform the services the personnel are assigned to perform.

(2) The personnel's required professional authorization is current and in good standing.

(3) That if the authorization holder knows or had reason to know that a personnel's professional authorization is no longer in good standing, the authorization holder will terminate the personnel and notify the client entity of the termination.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-970-0005

RULE TITLE: WORK EXPERIENCE FOR PERSONNEL

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Temporary Staffing Agencies with an authorization must make sure personnel is qualified for the settings to which they are assigned.

RULE TEXT:
Every authorization holder must ensure that any personnel placed with a client entity has the appropriate work experience, training, and background needed to provide the services required by the client entity.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-970-0010

RULE TITLE: RECORDS

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Record retention requirements for temporary staffing agencies with an authorization from the Health Licensing Office.

RULE TEXT:

Authorization holders must maintain the following records for at least 10 years, and make them available to the Office upon request:

(1) Personnel applications for employment that include the name and address of the applicant, the date of application, a description of the types of employment the applicant is seeking, a description of past work experience in the types of employment being sought, and if necessary, proof of professional authorizations required to perform services.

(2) Proof that the authorization holder verified any professional authorization needed for personnel to perform the services to be provided by the personnel.

(3) All requests from client entities seeking to hire personnel that include the name and address of the client entity, the date of the request, a description of the type of personnel being sought, the type of professional authorization needed for the personnel to perform the services being sought and the address or location at which the work is being performed.

(4) Copies of all contracts between personnel and the authorization holder.

(5) Copies all contracts between the authorization holder and the client entity.

(6) A record of fees charged, collected, and refunded, and such accounting record as may be necessary to verify the record of fees charged, fees collected, and refunds made.

(7) All records related to employee competency evaluations and testing.

(8) All records related to employee performance.

(9) All records related to the authorization holder's policies related to personnel assignments.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-975-0000

RULE TITLE: DISCIPLINE

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: What violations may result in discipline.

RULE TEXT:

(1) In the manner prescribed in ORS Chapter 183, for contested cases, the Office may deny, revoke, suspend, or otherwise discipline a person for a violation of Section 2, 4, or 5 of Senate Bill 1549 (2022) or any administrative rule adopted thereunder.

(2) The Office may impose discipline as provided for in Section (1) of this rule when a person:

(a) Violates any provisions of Section 2, 4, or 5 of Senate Bill 1549 (2022) or any administrative rule or order issued by the Office.

(b) Provides false information or misrepresents any information on any application or form required by the Office.

(c) Fails to ensure that personnel have the correct professional authorization or work experience needed pursuant to 331-970-0000 and 331-970-0005..

(d) Fails to retain records as provided for in 331-970-0010.

(e) Fails to disclose to the Office any information or records requested.

(f) Fails to cooperate with an investigation by the Office or any other regulatory agency.

(g) Charges a fee in violation of Section 5 (2) of Senate Bill 1549 (2022).

(h) Has been disciplined by any other governmental agency or entity.

(i) Has been convicted of, or pleaded guilty or no contest to, any felony or misdemeanor involving dishonesty or misrepresentation.

(j) Fails to comply with any final order.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625

ADOPT: 331-975-0005

RULE TITLE: CIVIL PENALTIES

NOTICE FILED DATE: 04/24/2023

RULE SUMMARY: Rule outlines civil penalties that could be assessed by the Health Licensing Office.

RULE TEXT:

(1) In addition to any discipline imposed, the Office may impose a civil penalty of $500 per day per violation of any provision of Section 2, 4, or 5 of Senate Bill 1549 (2022).

(2) Each assignment of an individual personnel member is considered a separate violation.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625