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CHAPTER 331
OREGON HEALTH AUTHORITY
HEALTH LICENSING OFFICE

FILING CAPTION: Aligning Temporary Staffing Agency Program rules with changes made by House Bill 2665 (2023).

EFFECTIVE DATE: 09/25/2023

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

AMEND: 331-960-0000

RULE TITLE: DEFINITIONS

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating definitions to reflect changes made by House Bill 2665 (2023)

RULE TEXT:
The following definitions apply to OAR 331-960-0000 to OAR 331-975-0005:
(1) “Assistance with activities of daily living” means services related to bathing and personal hygiene, dressing and grooming, eating, mobility, bowel and bladder management, administering medication and cognition.
(2) “Authorization holder” means a temporary staffing agency that has been issued an authorization to operate in Oregon.
(3) “Client entity” means an in-home care agency as defined in 443.305; memory care endorsement facility as described in ORS 443.886; residential care facility as defined in ORS 443.400; or a skilled nursing facility as defined in ORS 442.015 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.
(4) “Hospital client entity” means a hospital as defined in ORS 442.015 that engages a temporary staffing agency to provide personnel to the hospital client entity to provide health care services to patients for the hospital client entity.
(5) “Office” means the Health Licensing Office.
(6) “Personnel” means:
(a) An individual registered nurse, licensed practical nurse, certified medical assistant, certified nursing assistant or direct caregiver 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 a client entity; or
(b) An individual registered nurse or certified nursing assistant assigned to a hospital client entity by a temporary staffing agency who provides health care services to patients for the hospital client entity.

(7) “Physical location” means any physical office location of a temporary staffing agency that provides personnel to an Oregon client or hospital 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 or hospital entity.
(8) “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 or hospital entities.
(9) “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 or hospital entities.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-965-0000

RULE TITLE: TEMPORARY STAFFING AGENCIES

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

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) Comply with all the requirements of Section 4 of HB 2665 (2023).

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

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

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-970-0000

RULE TITLE: PROFESSIONAL AUTHORIZATION REQUIREMENTS

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

RULE TEXT:

In addition to the requirements outlined in Section 4 of House Bill 2665 (2023), when a client or hospital 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 or hospital entity of the termination.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-970-0005

RULE TITLE: WORK EXPERIENCE FOR PERSONNEL

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

RULE TEXT:

In addition to the requirements outlined in Section 4 of House Bill 2665 (2023), every authorization holder must ensure that any personnel placed with a client or hospital entity has the appropriate work experience, training, and background needed to provide the services required by the client or hospital entity.

STATUTORY/OTHER AUTHORITY: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-970-0010

RULE TITLE: RECORDS

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

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 or hospital entities seeking to hire personnel that include the name and address of the client or hospital 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 of all contracts between the authorization holder and the client or hospital 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, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-975-0000

RULE TITLE: DISCIPLINE

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

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), House Bill 2665 (2023), 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), House Bill 2665 (2023), 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, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)

AMEND: 331-975-0005

RULE TITLE: CIVIL PENALTIES

NOTICE FILED DATE: 07/31/2023

RULE SUMMARY: Updating Temporary Staffing Agency Program rules to align with changes made by House Bill 2665 (2023).

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), or Section 2, 9, 10 or 11 of House Bill 2665 (2023).

(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, House Bill 2665 (2023)

STATUTES/OTHER IMPLEMENTED: Senate Bill 1549 (2022), ORS 676.560-676.625, House Bill 2665 (2023)