

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
1 CHARLES III, 2023

Bill 67

An Act respecting the licensing and regulation of temporary nursing agencies

Mr. A. Shamji

Private Member's Bill

1st Reading February 23, 2023

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill enacts the *Temporary Nursing Agency Licensing and Regulation Act, 2023*.

The Act adds a new licensing requirement for operators of temporary nursing agencies. Applications for these licences must be submitted to the Registrar appointed under the Act. The applications must contain a credentialling and monitoring plan as well as a compliance plan.

Licences are subject to several terms and conditions. These include a predictable fee requirement, a prohibition on unconscionable prices, limitations on work assignment and recruitment practices and certain disclosure obligations. Contravention of the Act or the regulations is an offence and is punishable on conviction by a fine.

An Act respecting the licensing and regulation of temporary nursing agencies

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 In this Act,

“client”, in relation to a temporary nursing agency, means a person or entity that enters into an arrangement with the agency under which the agency agrees to assign, attempt to assign or offer work assignments to one or more nurses to perform work for the person or entity on a temporary basis; (“client”)

“licence” means a licence issued or renewed under section 5; (“permis”)

“licensee” means the holder of a licence; (“titulaire de permis”)

“Minister” means the Minister of Health or such other member of the Executive Council to whom responsibility for the administration of this Act may be assigned or transferred under the *Executive Council Act*; (“ministre”)

“nurse” means a member of the College of Nurses of Ontario; (“infirmière ou infirmier”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“Registrar” means the registrar appointed under section 2; (“registrateur”)

“regulations” means the regulations made under this Act; (“règlements”)

“temporary nursing agency” means,

- (a) a temporary help agency, as defined in the *Employment Standards Act, 2000*, that employs nurses for the purpose of assigning them to perform work on a temporary basis for clients of the agency, or
- (b) an agency or other organization that operates a platform, digital application or marketplace to offer work assignments to nurses to perform work on a temporary basis. (“agence de soins infirmiers temporaires”)

Registrar

2 (1) The Minister shall appoint a Registrar for the purposes of this Act.

Qualifications

(2) A person shall not be appointed as a Registrar under subsection (1) unless they have education or experience in the following areas:

1. Health care profession regulation.
2. The evaluation of clinical performance against professional standards.
3. Quality improvement in a health care setting.

Licence to operate as a temporary nursing agency required

3 (1) No person shall operate as a temporary nursing agency unless the person holds a licence.

Publication of licence

(2) A licensee shall publish a copy of their licence and make it available to the public for inspection.

Nurses

(3) No nurse shall knowingly be employed by, or receive work assignments from, a temporary nursing agency unless the agency has published a copy of their licence as required by subsection (2).

Clients

(4) No client shall knowingly engage or use the services of a temporary nursing agency unless the client has confirmed that the agency has published a copy of their licence as required by subsection (2).

Application for licence

4 (1) A person may submit an application to the Registrar to apply for a licence or the renewal of a licence.

Required contents

(2) An application must include,

- (a) a description of the agency's nurse credentialling and monitoring plan demonstrating that the agency will ensure that any nurses who are employed by or who receive work assignments from the agency,
 - (i) are in good standing with their health profession College,
 - (ii) are adequately educated for the work they will perform and are in compliance with any continuing competency and quality assurance requirements that apply to them,
 - (iii) are maintaining adequate professional liability protection as required under the *Nursing Act, 1991*,
 - (iv) have adequate training in infection prevention and control, and
 - (v) have not been convicted of a prescribed offence or been found guilty of a prescribed act of professional misconduct; and
- (b) a compliance plan detailing how the licensee will comply with the terms and conditions of the licence in section 10, particularly as they relate to recruiting.

Issuance of licence

5 The Registrar shall issue a licence to an applicant or renew an applicant's licence if the Registrar,

- (a) confirms that the application is complete;
- (b) is satisfied that the credentialling and monitoring plan and compliance plan will satisfy the requirements of subsection 4 (2); and
- (c) is satisfied that the applicant will comply with the terms and conditions of the licence.

Revocation or suspension of licence

6 The Registrar may revoke or suspend a licence if the Registrar determines that the licensee is not in compliance with any of the requirements set out in section 4.

Inspectors

7 (1) The Registrar may appoint inspectors in accordance with the regulations.

Inspections

(2) Inspectors may, in accordance with the regulations, conduct inspections of licensed temporary nursing agencies to ensure compliance with this Act and with the terms and conditions of a licensee's licence.

Complaints

(3) Any person may make a complaint to the Registrar about a licensee or about a person who is contravening this Act in accordance with the regulations.

Licence not transferable

8 A licence is not transferable.

Expiry of licence

9 A licence expires two years after the date it is issued or renewed.

Terms and conditions

10 (1) Every licence is subject to the following terms and conditions:

1. The licensee shall establish consistent and predictable fees for nursing services and must not employ dynamic pricing that is tied to short-term health human resource demands, other than short-term fee increases during holiday periods that are established at least one month in advance.
2. The licensee shall not provide or offer to provide its services for a client at an unconscionable price.
3. The licensee shall not permit any of its employees to be assigned to work for a client if they are currently employed by that client or if they were employed by that client within the previous six months.
4. The licensee shall ensure that they are not recruiting nurses away from their existing positions.
5. The licensee shall not engage in restrictive employment practices, including but not limited to requiring their nurses to sign non-compete clauses that stop the nurses from being employed by a client of the agency.

6. The licensee shall disclose a list of the nurses who are employees of the agency, or who receive work assignments from the agency, upon request to any client or prospective client.
7. The licensee shall make any contracts they have with their clients available to the public.
8. The licensee shall publish their expenses, revenues and profits for each of their fiscal years and make the information available to the public within 90 days after the end of that fiscal year.
9. The licensee shall comply with any other terms or conditions that may be prescribed.

Unconscionable price

(2) For the purposes of paragraph 2 of subsection (1), an unconscionable price includes a price that is grossly excessive and established under circumstances in which a client or prospective client faces significant pressure or faces severely constrained nursing recruitment options.

Offence and penalties

- 11** (1) A person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable,
- (a) in the case of an individual, to a fine of not more than \$50,000; and
 - (b) in the case of a corporation, to a fine of not more than \$100,000.

Same

(2) Despite subsection (1), a person who contravenes subsection 3 (3) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Regulations

12 The Minister may make regulations,

- (a) prescribing anything that is referred to in this Act as being prescribed;
- (b) governing the appointment of inspectors and their powers, functions and duties;
- (c) governing inspections conducted under this Act;
- (d) governing complaints made about licensees or other persons.

Commencement

13 This Act comes into force on the day that is six months after the day this Act receives Royal Assent.

Short title

14 The short title of this Act is the *Temporary Nursing Agency Licensing and Regulation Act, 2023*.