

1 which can be given effect without the invalid provision or application,  
 2 and to this end the provisions of this article are severable.  
 3 § 5. This act shall take effect on the sixtieth day after it shall  
 4 have become a law.

5 PART V

6 Intentionally Omitted

7 PART W

8 Section 1. Subdivision b of section 12 of chapter 471 of the laws of  
 9 2016 amending the education law and the public health law relating to  
 10 authorizing certain advanced home health aides to perform certain  
 11 advanced tasks, is amended to read as follows:

12 b. this act shall expire and be deemed repealed March 31, [2023] 2029.  
 13 § 2. This act shall take effect immediately and shall be deemed to  
 14 have been in full force and effect on and after April 1, 2023.

15 PART X

16 Section 1. The public health law is amended by adding a new article  
 17 29-K to read as follows:

18 ARTICLE 29-K

19 REGISTRATION OF TEMPORARY HEALTH CARE SERVICES AGENCIES AND HEALTH  
 20 CARE TECHNOLOGY PLATFORMS

21 Section 2999-ii. Definitions.

22 2999-jj. Registration of temporary health care services agen-  
 23 cies; requirements.

24 2999-kk. Temporary health care services agencies; minimum stand-  
 25 ards.

26 2999-ll. Violations; penalties.

27 2999-mm. Rates for temporary health care services; reports.

28 § 2999-ii. Definitions. For the purposes of this article:

29 1. "Certified nurse aide" means a person included in the nursing home  
 30 nurse aide registry pursuant to section twenty-eight hundred three-j of  
 31 this chapter as added by chapter seven hundred seventeen of the laws of  
 32 nineteen hundred eighty-nine.

33 2. "Controlling person" means a person, officer, program administra-  
 34 tor, or director whose responsibilities include the direction of the  
 35 management or policies of a temporary health care services agency.  
 36 "Controlling person" also means an individual who, directly owns at  
 37 least ten percent voting interest in a corporation, partnership, or  
 38 other business entity that is a controlling person.

39 3. "Health care entity" means an agency, corporation, facility, or  
 40 individual providing medical or health care services.

41 4. "Health care personnel" means nurses, certified nurse aides and  
 42 licensed or unlicensed direct care staff provided by the temporary  
 43 health care services agency to provide temporary services in a health  
 44 care entity.

45 5. "Nurse" means a registered professional nurse, or a licensed prac-  
 46 tical nurse as defined by article one hundred thirty-nine of the educa-  
 47 tion law.

48 6. "Direct care worker" means an individual who is responsible for  
 49 patient/resident handling or patient/resident assessment as a regular or

1 incidental part of their services, including any licensed or unlicensed  
2 health care worker.

3 7. "Person" means an individual, firm, corporation, partnership, or  
4 association.

5 8. "Temporary health care services agency" or "agency" means a person,  
6 firm, corporation, partnership, association or other entity in the busi-  
7 ness of providing or procuring temporary employment of health care  
8 personnel for health care entities. Temporary health care services agen-  
9 cy shall include a nurses' registry licensed under article eleven of the  
10 general business law and entities that utilize apps or other technolo-  
11 gy-based solutions to provide or procure temporary employment of health  
12 care personnel in health care entities. Temporary health care services  
13 agency shall not include: (a) an individual who only engages in provid-  
14 ing the individual's own services on a temporary basis to health care  
15 entities; or (b) a home care agency licensed under article thirty-six of  
16 this chapter.

17 § 2999-jj. Registration of temporary health care services agencies;  
18 requirements. 1. Any person who operates a temporary health care  
19 services agency shall register the agency with the department.

20 2. The commissioner shall publish guidelines establishing the forms  
21 and procedures for applications for registration. Forms must include, at  
22 a minimum all of the following:

23 (a) The names and addresses of the temporary health care services  
24 agency controlling person or persons.

25 (b) The names and addresses of health care entities where the control-  
26 ling person or persons or their family members:

27 (i) have an ownership relationship; or

28 (ii) direct the management or policies of such health care entities.

29 (c) A demonstration that the applicant is of good moral character and  
30 able to comply with all applicable state laws and regulations relating  
31 to the activities in which it intends to engage under the registration.

32 (d) Registration and registration annual renewal fees of one thousand  
33 dollars and shall only be used for the purpose of operating this regis-  
34 try.

35 (e) The state of incorporation of the agency.

36 (f) Any additional information that the commissioner determines is  
37 necessary to properly evaluate an application for registration.

38 3. As a condition of registration, a temporary health care services  
39 agency:

40 (a) Shall document that each health care personnel provided to or  
41 contracted with health care entities currently meets the minimum licens-  
42 ing, training, and continuing education standards for the position in  
43 which the health care personnel will be working.

44 (b) Shall comply with all pertinent requirements and qualifications  
45 for personnel employed in health care entities.

46 (c) Shall not restrict in any manner the employment opportunities of  
47 its health care personnel.

48 (d) Shall not require the payment of liquidated damages, employment  
49 fees, or other compensation should the health care personnel be hired as  
50 a permanent employee of a health care entity in any contract with any  
51 health care personnel or health care entity or otherwise.

52 (e) Shall retain all records related to health care personnel for six  
53 calendar years and make them available to the department upon request.

54 (f) Shall comply with any requests made by the department to examine  
55 the books and records of the agency, subpoena witnesses and documents  
56 and make such other investigation as is necessary in the event that the

1 department has reason to believe that the books or records do not accu-  
2 rately reflect the financial condition or financial transactions of the  
3 agency.

4 (g) Shall comply with any additional requirements the department may  
5 deem necessary.

6 4. A registration issued by the commissioner according to this section  
7 shall be effective for a period of one year, unless the registration is  
8 revoked or suspended, or unless ownership interest of ten percent or  
9 more, or management of the temporary health care services agency, is  
10 sold or transferred. When ownership interest of ten percent or more, or  
11 management of a temporary health care services agency is sold or trans-  
12 ferred, the registration of the agency may be transferred to the new  
13 owner or operator for thirty days, or until the new owner or operator  
14 applies and is granted or denied a new registration, whichever is soon-  
15 er.

16 5. The commissioner may, after appropriate notice and hearing,  
17 suspend, revoke, or refuse to issue or renew any registration or issue  
18 any fines established pursuant to section twenty-nine hundred ninety-  
19 nine-ll of this article if the applicant fails to comply with this arti-  
20 cle or any guidelines, rules and regulations promulgated thereunder.

21 6. The commissioner shall make available a list of temporary health  
22 care services agencies registered with the department on the depart-  
23 ment's public website.

24 7. The department shall publish a quarterly report containing aggre-  
25 gated and de-identified data collected pursuant to this article on the  
26 department's website.

27 8. The department, in consultation with the department of labor, shall  
28 provide a report to the governor and legislature on or before January  
29 first, two thousand twenty-four, summarizing the key findings of the  
30 data collected pursuant to this article. The department shall further  
31 have authority to utilize any data collected pursuant to this article  
32 for additional purposes consistent with this chapter, including but not  
33 limited to determinations of whether an acute labor shortage exists, or  
34 any other purpose the department deems necessary for health care related  
35 data purposes.

36 9. The attorney general may, upon the request of the department, bring  
37 an action for an injunction against any person who violates any  
38 provision of this article; provided, the department shall furnish the  
39 attorney general with such material, evidentiary matter or proof as may  
40 be requested by the attorney general for the prosecution of such action.

41 § 2999-kk. Temporary health care services agencies; minimum standards.

42 1. A temporary health care services agency shall appoint an administra-  
43 tor qualified by training, experience or education to operate the agen-  
44 cy. Each separate agency location shall have its own administrator.

45 2. A temporary health care services agency shall maintain a written  
46 agreement or contract with each health care entity, which shall include,  
47 at a minimum:

48 (a) The required minimum licensing, training, and continuing education  
49 requirements for each assigned health care personnel.

50 (b) Any requirement for minimum advance notice in order to ensure  
51 prompt arrival of assigned health care personnel.

52 (c) The maximum rates that can be billed or charged by the temporary  
53 health care services agency pursuant to section twenty-nine hundred  
54 ninety-nine-~~mm~~ of this article and any applicable regulations.

55 (d) The rates to be charged by the temporary health care services  
56 agency.



1 (e) Procedures for the investigation and resolution of complaints  
2 about the performance of temporary health care services agency person-  
3 nel.

4 (f) Procedures for notice from health care entities of failure of  
5 medical personnel to report to assignments.

6 (g) Procedures for notice of actual or suspected abuse, theft, tamper-  
7 ing or other diversion of controlled substances by medical personnel.

8 (h) The types and qualifications of health care personnel available  
9 for assignment through the temporary health care services agency.

10 3. A temporary health care services agency shall submit to the depart-  
11 ment copies of all contracts between the agency and a health care entity  
12 to which it assigns or refers health care personnel, and copies of all  
13 invoices to health care entities personnel. Executed contracts must be  
14 sent to the department within five business days of their effective date  
15 and are not subject to disclosure under article six of the public offi-  
16 cers law.

17 4. The commissioner may promulgate regulations to implement the  
18 requirements of this section and to establish additional minimum stand-  
19 ards for the operation of temporary health care services agencies,  
20 including but not limited to pricing, fees, administrative costs,  
21 profits, and business practices.

22 5. The commissioner may waive the requirements of this article during  
23 a declared state or federal public health emergency.

24 § 2999-ll. Violations; penalties. In addition to other remedies avail-  
25 able by law, violations of the provisions of this article and any regu-  
26 lations promulgated thereunder shall be subject to penalties and fines  
27 pursuant to section twelve of this chapter; provided, however, that each  
28 violation committed by any health care personnel of a temporary health  
29 care services agency shall be considered a separate violation.

30 § 2999-mm. Rates for temporary health care services; reports. A tempo-  
31 rary health care services agency shall report quarterly to the depart-  
32 ment a full disclosure of charges and compensation, including a schedule  
33 of all hourly bill rates per category of health care personnel, a full  
34 description of administrative charges, and a schedule of rates of all  
35 compensation per category of health care personnel including, but not  
36 limited to:

37 1. hourly regular pay rate, shift differential, weekend differential,  
38 hazard pay, charge nurse add-on, overtime, holiday pay, travel or mile-  
39 age pay, and any health or other fringe benefits provided;

40 2. the percentage of health care entity dollars that the agency  
41 expended on temporary personnel wages and benefits compared to the  
42 temporary health care services agency's profits and other administrative  
43 costs;

44 3. a list of the states and zip codes of their health care personnels'  
45 primary residences;

46 4. the names of all health care entities they have contracted within  
47 New York state;

48 5. the number of health care personnel of the temporary health care  
49 services agency working at each entity; and

50 6. any other information prescribed by the commissioner.

51 § 2. This act shall take effect ninety days after it shall have become  
52 a law.