

I\_134\_2082-3

134th General Assembly  
Regular Session  
2021-2022

Sub. H. B. No. 466

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**A BILL**

To amend section 3701.83 and to enact sections  
3724.01, 3724.02, 3724.03, 3724.04, 3724.05,  
3724.06, 3724.07, 3724.08, 3724.09, 3724.10,  
3724.11, 3724.12, 3724.13, 3724.14, and 3724.99  
of the Revised Code to establish requirements  
for the registration and operation of health  
care staffing agencies and to allow an extension  
of time to begin a project under a certificate  
of need granted during the COVID-19 pandemic,  
and to amend the version of section 3701.83 of  
the Revised Code that is scheduled to take  
effect on September 30, 2024, to continue the  
change on and after that date.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3701.83 be amended and sections  
3724.01, 3724.02, 3724.03, 3724.04, 3724.05, 3724.06, 3724.07,  
3724.08, 3724.09, 3724.10, 3724.11, 3724.12, 3724.13, 3724.14,  
and 3724.99 of the Revised Code be enacted to read as follows:

**Sec. 3701.83.** There is hereby created in the state



treasury the general operations fund. Moneys in the fund shall 19  
be used for the purposes specified in sections 3701.04, 20  
3701.344, 3702.20, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 21  
3724.14, 3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 22  
3748.13, 3749.04, 3749.07, 4736.06, and 4769.09 of the Revised 23  
Code. 24

Sec. 3724.01. As used in this chapter: 25

(A) "Controlling person" means either of the following: 26

(1) A business entity, officer, program administrator, or 27  
director whose responsibilities include directing the management 28  
or policies of a health care staffing agency; 29

(2) An individual who, directly or indirectly, owns an 30  
interest in a business entity described in division (A) (1) of 31  
this section. 32

(B) "Health care personnel" means any licensed health care 33  
professional or unlicensed health care personnel who provides 34  
care, support, or services directly to patients. 35

(C) "Health care provider" means any of the following: 36

(1) A home, as defined in section 3721.10 of the Revised 37  
Code; 38

(2) A home health agency, as defined in section 3740.01 of 39  
the Revised Code; 40

(3) A hospice care program, as defined in section 3712.01 41  
of the Revised Code; 42

(4) A residential facility, as defined in section 5123.19 43  
of the Revised Code; 44

(5) A residential facility, as defined in section 5119.34 45

of the Revised Code;

(6) A community addiction services provider, as defined in  
section 5119.01 of the Revised Code;

(7) A community mental health services provider, as  
defined in section 5119.01 of the Revised Code;

(8) A medicaid provider who provides medicaid waiver  
component services, as defined in section 5166.01 of the Revised  
Code.

(D) "Health care staffing agency" means a person that is  
regularly engaged in the business of providing or procuring, for  
a fee, health care personnel to serve as temporary staff for  
health care providers. "Health care staffing agency" includes an  
online health care staff matching service. "Health care staffing  
agency" does not include either of the following:

(1) An individual who is engaged only in providing or  
offering that individual's services to health care providers as  
a temporary employee or contractor;

(2) A government entity.

(E) "Online health care staff matching service" means a  
person that operates or offers an electronic platform on which  
health care personnel may be listed as available to serve as  
temporary staff for health care providers.

**Sec. 3724.02.** (A) Each health care staffing agency shall  
annually register with the director of health. For purposes of  
the registration requirement, each physical location of a health  
care staffing agency shall separately register with the  
director.

(B) The director shall establish registration application

forms and procedures. Each registration application shall be 74  
accompanied by the fee set forth in division (C) of this section 75  
and include at least the following: 76

(1) (a) The name and address of each owner with an interest 77  
of five per cent or more in the health care staffing agency, 78  
except that if that information does not result in a disclosure 79  
of at least eighty-five per cent of the ownership of the agency, 80  
all owners shall be disclosed; 81

(b) If an owner is not a natural person, the name and 82  
address of each natural person with more than a five per cent 83  
interest in that owner. 84

(2) If the health care staffing agency, or an owner, is a 85  
corporation, a copy of the associated articles of incorporation 86  
and current bylaws, and the name and address of each officer and 87  
director; 88

(3) A copy of the health care staffing agency's policies 89  
and procedures designed to ensure compliance with divisions (A) 90  
(4) and (5) of section 3724.07 of the Revised Code, as well as 91  
any other proof of compliance required by the director; 92

(4) A copy of the health care staffing agency's policies 93  
and procedures regarding record retention and availability 94  
designed to ensure compliance with divisions (A) (6) and (7) of 95  
section 3724.07 of the Revised Code; 96

(5) Certification that the health care staffing agency has 97  
not had a registration revoked under this chapter within the 98  
three years immediately preceding the date of the application; 99

(6) Any other information or documentation required by the 100  
director. 101

(C) Each applicant for registration of a health care 102  
staffing agency shall pay an application fee in the amount of 103  
two thousand dollars. The fee is nonrefundable. 104

**Sec. 3724.03.** The director of health shall review each 105  
application received under section 3724.02 of the Revised Code 106  
for registration of a health care staffing agency. The director 107  
shall register a health care staffing agency if the applicant 108  
has submitted a complete application, paid the application fee, 109  
and demonstrated to the director's satisfaction that the 110  
requirements for registration as set forth in this chapter are 111  
met. 112

**Sec. 3724.04.** A registration issued under this chapter to 113  
a health care staffing agency is valid for one year from the 114  
date of its issuance, unless one of the following is the case: 115

(A) The agency's registration is earlier revoked or 116  
suspended. 117

(B) The agency is sold. 118

(C) The agency's ownership or management is transferred 119  
such that forty per cent or more of the owners or managers of 120  
the agency were not previously registered under this chapter. 121

**Sec. 3724.05.** (A) A health care staffing agency that has 122  
provided staffing services during the year preceding the 123  
agency's registration renewal date may renew the agency's 124  
registration by applying to the director of health using a 125  
registration renewal form established by the director and 126  
complying with any renewal application procedures established by 127  
the director. 128

(B) The director of health shall establish forms and 129  
procedures for processing applications for the annual renewal of 130

registrations issued under this chapter. The director shall 131  
charge a fee of two thousand dollars for renewal. The fee is 132  
nonrefundable. 133

(C) An application for renewal shall include all of the 134  
following information: 135

(1) A description of any changes to the items described in 136  
division (B) of section 3724.02 of the Revised Code; 137

(2) Documentation demonstrating that the agency provided 138  
staffing services to health care providers during the calendar 139  
year immediately preceding the registration renewal date. 140

(D) An applicant for registration renewal shall pay the 141  
renewal fee during the month of the renewal date. If an 142  
applicant fails to pay the renewal fee during that month, the 143  
applicant shall pay a late fee of two hundred dollars in 144  
addition to the renewal fee. If the renewal fee or any late fee 145  
is not paid by the thirtieth day after the renewal date, the 146  
director may, in accordance with Chapter 119. of the Revised 147  
Code, revoke the agency's registration. 148

(E) The director shall review all applications received 149  
for registration renewal. If an application is complete, the 150  
renewal fee and any late fee have been paid, and the director 151  
determines that the applicant meets all other eligibility 152  
requirements, the director shall renew the applicant's 153  
registration to operate a health care staffing agency. 154

(F) A health care staffing agency that has not provided 155  
staffing services during the year preceding the agency's 156  
registration renewal date is ineligible for renewal, but may 157  
apply for a new registration under section 3724.02 of the 158  
Revised Code. 159

Sec. 3724.06. (A) Except as provided in division (B) of 160  
this section, no person shall knowingly operate a health care 161  
staffing agency unless the person is registered under this 162  
chapter. 163

(B) In the case of a health care staffing agency that is 164  
operating on the effective date of this section, an application 165  
for registration shall be submitted under section 3724.02 of the 166  
Revised Code not later than thirty days after the effective date 167  
of this section. If the application is submitted accordingly, 168  
the agency may continue to operate without being registered 169  
until the earlier of the following: 170

(1) The date a final decision is made by the director of 171  
health to deny the registration; 172

(2) The date that is one hundred twenty days after the 173  
effective date of this section. 174

Sec. 3724.07. (A) Each health care staffing agency 175  
registered under this chapter shall do all of the following: 176

(1) Ensure that when the health care staffing agency 177  
assigns or otherwise agrees to provide health care personnel to 178  
a health care provider to work for a specific shift or other 179  
time period, the assigned personnel or a substitute works for 180  
the agreed time period at no additional charge to the provider; 181

(2) Establish and provide to health care providers a 182  
schedule of fees and charges that shall not be modified except 183  
after providing written notice at least thirty days in advance 184  
of any change; 185

(3) Employ, as an employee of the health care staffing 186  
agency, each individual that the agency provides to a health 187  
care provider to serve as temporary health care personnel; 188

(4) Verify, maintain, and, upon request of a health care 189  
provider to which the agency provides health care personnel, 190  
furnish supporting documentation that each individual provided 191  
to the provider to serve as temporary health care personnel, at 192  
the time of placement, meets all of the following: 193

(a) Minimum licensing, training, and continuing education 194  
standards for the position in which the individual will be 195  
working; 196

(b) Criminal records check requirements for employees of 197  
the health care provider; 198

(c) Requirements for reviewing registries of persons with 199  
findings of abuse or neglect; 200

(d) Requirements for determining whether exclusions from 201  
medicare or medicaid exist; 202

(e) All of the health care provider's employee health 203  
requirements, including requirements relating to testing for and 204  
vaccination against infectious disease and requirements relating 205  
to drug testing; 206

(f) Any other qualification or requirement maintained by 207  
the health care provider for its employees. 208

(5) Prohibit all health care staffing agency employees 209  
from recruiting employees of the health care provider with which 210  
health care personnel are placed, and instruct all agency 211  
employees regarding this prohibition; 212

(6) Make health care staffing agency records immediately 213  
available to the director of health during normal business 214  
hours; 215

(7) Retain health care staffing agency records for a 216



minimum of five years or a longer period if required by state or 217  
federal law; 218

(8) Carry professional liability insurance that covers at 219  
least one million dollars per occurrence and three million 220  
dollars aggregate to protect against loss, damage, or expense 221  
incident to a claim arising out of the death or injury of any 222  
person as the result of negligence or malpractice in the 223  
provision of health care services by the health care staffing 224  
agency or any of the agency's employees; 225

(9) Secure and maintain workers' compensation coverage in 226  
accordance with Chapters 4121., 4123., 4127., and 4131. of the 227  
Revised Code; 228

(10) Carry a surety bond for employee dishonesty that 229  
provides coverage in an amount that is not less than one hundred 230  
thousand dollars. 231

(B) A health care staffing agency shall not attempt to 232  
require a health care provider, by contract or otherwise, to 233  
waive any of the requirements of this chapter or the rules 234  
adopted under it as a condition of supplying personnel to the 235  
provider. Any waiver of the requirements that may result from 236  
such an attempt is void and unenforceable. 237

**Sec. 3724.08. A health care staffing agency shall not do** 238  
**any of the following:** 239

(A) Restrict the employment opportunities of its 240  
employees, including by requiring any of the following: 241

(1) That an employee pay money to terminate employment or 242  
otherwise cease to provide services; 243

(2) That an employee enter into a post-termination of 244

services noncompete agreement; 245

(3) That an employee accept an employment buyout. 246

(B) Require, in any contract with an employee or health 247  
care provider, the payment of liquidated damages, employment 248  
fees, or other compensation related to an employee being hired 249  
as a permanent employee of the health care provider; 250

(C) Recruit, solicit, or entice an employee of a health 251  
care provider to leave employment with the provider; 252

(D) Pay or make a gift to any employee of a health care 253  
provider; 254

(E) Contract with individuals as independent contractors 255  
for use by the agency in providing temporary health care 256  
personnel to health care providers. 257

**Sec. 3724.09.** (A) (1) A health care staffing agency shall 258  
not bill or receive payments from an applicable health care 259  
provider for any category of health care personnel listed in the 260  
medicaid cost reports submitted under section 5124.10 or 5165.10 261  
of the Revised Code at a rate that is higher than one hundred 262  
fifty per cent of the statewide direct care median hourly wage 263  
for that category of personnel, as that wage is determined by 264  
the department of medicaid from the cost reports for the most 265  
recent calendar year for which the department of medicaid has 266  
determined such a median wage, multiplied by the rate of 267  
inflation estimated under division (A) (3) of this section. The 268  
department of medicaid shall calculate and publish statewide 269  
direct care median hourly wages for all personnel categories 270  
reported on the cost reports as soon as practicable after 271  
receiving the reports. 272

(2) A maximum rate established under division (A) (1) of 273

this section includes all charges for administrative fees, 274  
contract fees, shift bonuses, or any other charges in addition 275  
to the hourly rates for the health care personnel supplied to a 276  
health care provider, except that the health care staffing 277  
agency may charge the provider an additional hourly amount of 278  
not more than ten per cent of the maximum rate for an individual 279  
who directly provides care to patients with an infectious 280  
disease for which a declared public health emergency is in 281  
effect. 282

(3) The department of medicaid shall estimate the rate of 283  
inflation for the twelve-month period beginning on the first day 284  
of July of the cost report year and ending on the last day of 285  
June of the calendar year for which the rate is determined, 286  
using the following: 287

(a) Subject to division (A) (3) (b) of this section, the 288  
employment cost index for total compensation, health care and 289  
social assistance component, published by the United States 290  
bureau of labor statistics; 291

(b) If the United States bureau of labor statistics ceases 292  
to publish the index specified in division (A) (3) (a) of this 293  
section, the index that is subsequently published by the bureau 294  
and covers the staff costs of health care providers. 295

(B) The medicaid director may establish median hourly 296  
wages for any category of personnel not reported on cost reports 297  
submitted under section 5124.10 or 5165.10 of the Revised Code 298  
based on data submitted by health care providers that utilize 299  
that category of personnel or based on any other data that the 300  
director considers appropriate. If the medicaid director 301  
establishes a median hourly wage for a category of personnel 302  
under this division, the wage that is established shall be used 303

to set a maximum rate for the category of personnel in the same 304  
manner that a maximum rate applies under division (A) of this 305  
section. 306

**Sec. 3724.10.** (A) An applicant for or holder of a 307  
registration issued under this chapter is subject to 308  
disciplinary actions by the director of health as specified in 309  
divisions (B) and (C) of this section. 310

(B) The director may deny, refuse to renew, revoke, or 311  
suspend a health care staffing agency registration for any of 312  
the following reasons: 313

(1) Lack of financial solvency or suitability; 314

(2) Inadequate treatment and care or criminal activity by 315  
personnel supplied by the agency or by any person managing the 316  
agency; 317

(3) Interference with a survey or other inspection 318  
conducted under section 3724.12 of the Revised Code; 319

(4) Failure to comply with the conditions or requirements 320  
that must be met to obtain and retain a registration; 321

(5) Failure to comply with any other requirement of this 322  
chapter or the rules adopted under it. 323

(C) The director shall revoke the registration of a health 324  
care staffing agency that knowingly provides to a health care 325  
provider a person with an illegally or fraudulently obtained or 326  
issued diploma, registration, license, certificate, criminal 327  
records check, or other item required for employment by a health 328  
care provider. 329

(D) In addition to the disciplinary actions described in 330  
divisions (B) and (C) of this section, the director shall fine a 331

health care staffing agency found to be in violation of section 332  
3724.09 of the Revised Code in an amount that is equal to two 333  
hundred per cent of the amount billed or received in excess of 334  
the maximum permitted under that section. 335

A health care staffing agency may request a 336  
reconsideration by the director of a fine imposed under this 337  
division. The reconsideration process is not subject to Chapter 338  
119. of the Revised Code. 339

(E) Except as provided in division (D) of this section, 340  
all actions for imposing disciplinary actions and fines under 341  
this section shall be taken in accordance with Chapter 119. of 342  
the Revised Code. 343

(F) (1) The controlling person of a health care staffing 344  
agency whose registration has not been renewed or has been 345  
revoked is not eligible to apply for or to be granted a 346  
registration for five years following the date that the 347  
registration is terminated for failure to renew or the date of 348  
the final order of revocation. 349

(2) The director shall not issue or renew a registration 350  
to operate a health care staffing agency if a controlling person 351  
of the agency includes any individual or entity that was a 352  
controlling person of a health care staffing agency whose 353  
registration was not renewed or was revoked during the five-year 354  
period immediately preceding the date the application for 355  
registration or renewal under consideration was submitted. 356

**Sec. 3724.11.** The director of health shall establish a 357  
system for the reporting of complaints against a health care 358  
staffing agency or its employees. Reports may be made by any 359  
individual. The director shall investigate all complaints made 360

against a health care staffing agency. 361

Sec. 3724.12. In addition to administering the 362  
registration requirements of this chapter and investigating 363  
complaints under section 3724.11 of the Revised Code, the 364  
director of health shall oversee the operation of health care 365  
staffing agencies by doing both of the following: 366

(A) Conducting surveys or other inspections on an annual 367  
or unannounced basis; 368

(B) Taking any other actions the director considers 369  
necessary to ensure agency compliance with this chapter and the 370  
rules adopted under it. 371

Sec. 3724.13. The director of health shall adopt rules as 372  
the director considers necessary to implement this chapter. All 373  
rules adopted under this section shall be adopted in accordance 374  
with Chapter 119. of the Revised Code. 375

Sec. 3724.14. All registration application fees, 376  
registration renewal fees, and fines collected under this 377  
chapter, other than financial penalties imposed under section 378  
3724.99 of the Revised Code, shall be deposited in the state 379  
treasury to the credit of the general operations fund created 380  
under section 3701.83 of the Revised Code. The amounts shall be 381  
used solely for purposes of administering and enforcing this 382  
chapter and the rules adopted under it. 383

Sec. 3724.99. Whoever violates section 3724.06 of the 384  
Revised Code is guilty of a misdemeanor of the second degree on 385  
a first offense; for each subsequent offense, the person is 386  
guilty of a misdemeanor of the first degree. 387

**Section 2.** That existing section 3701.83 of the Revised 388  
Code is hereby repealed. 389

**Section 3.** That the version of section 3701.83 of the 390  
Revised Code that is scheduled to take effect September 30, 391  
2024, be amended to read as follows: 392

**Sec. 3701.83.** There is hereby created in the state 393  
treasury the general operations fund. Moneys in the fund shall 394  
be used for the purposes specified in sections 3701.04, 395  
3701.344, 3711.16, 3717.45, 3718.06, 3721.02, 3721.022, 3724.14, 396  
3729.07, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 397  
3749.04, 3749.07, 4736.06, and 4769.09 of the Revised Code. 398

**Section 4.** That existing section 3701.83 of the Revised 399  
Code that is scheduled to take effect September 30, 2024, is 400  
hereby repealed. 401

**Section 5.** Sections 3 and 4 of this act take effect 402  
September 30, 2024. 403

**Section 6.** The Director of Health may begin implementing 404  
Chapter 3724. of the Revised Code, including issuing 405  
registrations, prior to adopting rules under section 3724.13 of 406  
the Revised Code. 407

**Section 7.** Notwithstanding division (A) of section 408  
3702.523 and division (B) of section 3702.524 of the Revised 409  
Code, or any other conflicting provision in sections 3702.51 to 410  
3702.62 of the Revised Code, all of the following apply in the 411  
case of a certificate of need granted during the period 412  
beginning March 9, 2020, and ending June 18, 2021: 413

(A) The Director of Health shall grant the holder of a 414  
certificate of need a twenty-four-month extension to obligate 415  
capital expenditures for the proposed project. The extension 416  
shall be effective during the twenty-four-month period 417  
immediately following the expiration date of the twenty-four- 418

month period that otherwise would apply, as described in 419  
division (A) of section 3702.524 of the Revised Code. The 420  
Director shall notify the holder of the certificate of need of 421  
the date on which the twenty-four-month extension expires. 422

(B) (1) Subject to division (B) (2) of this section, the 423  
owner of an entity for which a certificate of need was granted 424  
may sell its ownership in the entity without voiding the 425  
certificate of need held by the owner. 426

(2) In the event of a sale as described in division (B) (1) 427  
of this section, the Director shall transfer the certificate of 428  
need to the new owner, unless granting a certificate of need to 429  
the new owner would cause any of the circumstances specified in 430  
division (B) of section 3702.59 of the Revised Code to occur. 431