



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: June 29, 2023

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Mr. Benjamin Shrader, Chairperson 
State Council for Persons with Disabilities

RE: HB 204 (An Act to Amend Titles 16 and 29 of the Delaware Code
Relating to Temporary Staffing Agencies Serving Long-Term Care
Facilities)¹

The State Council for Persons with Disabilities (SCPD) has reviewed HB 204 which would grant DHSS authority to regulate temporary staffing agencies in long term care facilities and establishes a maximum rate that they may charge long term care facilities for their services.²

The SCPD has the following observations and recommendations:

- In recent years, largely because of the Covid-19 pandemic, long-term care facilities have increasingly relied on temporary staffing agencies to fill vacancies in direct care work.³ **The Task Force voiced concerns that temporary staff lack understanding of facility policies and personal**

¹ NOTE: HB 199 WAS STRICKEN

² Proposed § 1119C(a)

³ “In January 2022, the median hospital temporary staff accounted for 40% of labor-related expenses compared to 5% in January 2019.” See Task Force Final Report, 21.

relationships with the residents.⁴ Additionally, temporary staff provided by an agency is significantly more expensive than those employed directly by the facility.⁵

- HB 204 does not specify the basis for calculating the maximum rate or what the maximum rate would be.
- Presently, temporary staffing agencies are only required to maintain a business license.⁶ Pursuant to HB 204, they will be required to register with the DHSS and renew their registration annually.⁷ However, it is unsaid whether registration will require temporary staffing agencies to comply with any sort of guidelines, or if there is anything a temporary staffing agency could do that would cause the DHSS to deny registration.
- HB 204 additionally requires employees assigned by staffing agencies to long-term care facilities to meet federal and state qualification requirements. **While this requirement is beneficial to individuals with disabilities, the SCPD has significant concerns regarding maintaining the prevalence of temporary staff at facilities that offer memory care services, as individuals with dementia greatly benefit from the consistency of staff that temporary direct care workers cannot offer.**⁸
- The final provision of HB 204 requires temporary staffing agencies to provide an annual report to the DHSS, which must include details such as total employment numbers, amounts charged to facilities per quarter, wages paid per employee, and documentation providing that employees are adequately trained, and appropriate background checks have been conducted.⁹ **The SCPD supports the requirement that rigorous standards of documentation be implemented.**

⁴ *Id.*

⁵ According to the American Hospital Association, in January 2022, temporary staff accounted for 40% of labor expenses at the median hospital. *Id.*

⁶ Long-Term Care & Memory Care Task Force Final, 21.

⁷ Proposed § 1119D(a).

⁸ “Consistent staff assignments help to promote the quality of the relationships between staff and residents.” See Dementia Care Practice Recommendations for Assisted Living Facilities, Alzheimer’s Association Campaign for Quality Residential Care. “Consistent assignment of direct care staff to residents is necessary to understanding residents’ preferences and needs, building trust and relationships, and thereby, ensuring the continuity of care.” See Seetharaman K, Chaudhury H, Kary M, Stewart J, Lindsay B, Hudson M. Best Practices in Dementia Care: A Review of the Grey Literature on Guidelines for Staffing and Physical Environment in Long-Term Care.

⁹ Proposed § 1119D(d).

- Additionally, the staffing concerns addressed by this section are concerning, as well as SBs 150, 151, and 152. **The SCPD encourages DHSS to pause on the issuance of licenses to new ALFs based on existing staff shortages.**

The SCPD endorses this legislation with the above recommendations.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the proposed legislation.

cc: Ms. Marissa Band, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 204 Temp Staff Agencies for LTC 6-29-23