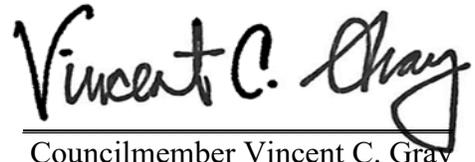




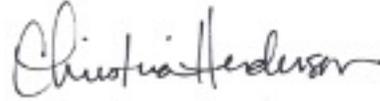
Councilmember Charles Allen



Councilmember Vincent C. Gray



Councilmember Brianne K. Nadeau



Councilmember Christina Henderson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

1 To require professional employer organizations that offer health insurance in the District to register
2 with the Department of Insurance, Securities, and Banking; and to authorize the Mayor to collect
3 registration fees, impose fines, and suspend and revoke certificates of registration.

4
5 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
6 act may be cited as the “Professional Employer Organization Registration Act of 2021”.

7 Sec. 2. Definitions.

8 For the purposes of this act, the term:

9 (1) “Client” means a person that enters into a PEO agreement with a PEO.

10 (2) “Co-employment relationship” means a relationship that is intended to be an
11 ongoing relationship rather than a temporary or project -specific relationship, where the rights,

12 duties, and obligations of an employer which arise out of an employment relationship have been
13 allocated between a PEO and a client pursuant to a PEO agreement.

14 (3) “Covered employee” means an employee of a client of a PEO whose
15 employment responsibilities are shared between the client and the PEO pursuant to a
16 professional employer agreement, if:

17 (A) The employee has been issued a written notice of co-employment with
18 the PEO; and

19 (B) The employee’s co-employment relationship has been established
20 pursuant to a professional employer agreement that includes the provision of health insurance
21 through a health benefit plan.

22 (4) “Health benefit plan” means an accident and health insurance policy or
23 certificate, hospital and medical services corporation contract, health maintenance organization
24 subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided
25 by another benefit arrangement. The term “health benefit plan” does not include accident only,
26 credit, or disability insurance; coverage of Medicare services or federal employee health plans
27 pursuant to contracts with the United States government; Medicare supplement or long-term care
28 insurance; dental only or vision only insurance; specified disease insurance; hospital
29 confinement indemnity coverage; limited benefit health coverage; coverage issued as a
30 supplement to liability insurance; insurance arising out of a workers’ compensation or similar
31 law; automobile medical payment insurance; medical expense and loss of income benefits ; or
32 insurance under which benefits are payable with or without regard to fault and that is statutorily
33 required to be contained in any liability insurance policy or equivalent self-insurance.

34 (5) “PEO” means a professional employer organization.

35 (6) “PEO agreement” means a professional employer organization agreement.

36 (7) “PEO group” means 2 or more PEOs the majority interests of which are
37 owned or commonly controlled by the same entity, parent, or controlling persons.

38 (8) “Person” means an individual or entity, including a partnership, corporation,
39 limited liability company, and association.

40 (9) “Professional employer organization” means a person engaged in the business
41 of providing professional employer services to a client with one or more covered employees in
42 the District. The term “professional employer organization” shall not include:

43 (A) An arrangement in which a person whose principal business activity is
44 not entering into professional employer arrangements and who does not hold itself out as a PEO
45 shares employees with a commonly owned company within the meaning of section 414(b) and
46 (c) of the Internal Revenue Code of 1986, effective September 2, 1974 (88 Stat. 925; 26
47 U.S.C.414(b) and (c));

48 (B) An independent contractor arrangement by which a person assumes
49 responsibility for the product produced or service performed by such person or its agents and
50 retains and exercises primary direction and control over the work performed by the individuals
51 whose services are supplied under such an arrangement; or

52 (C) A temporary help services organization.

53 (10) “Professional employer organization agreement” means a written contract
54 between a client and a PEO that provides for the co-employment of covered employees of the

55 client and provides for the allocation of employer rights and obligations between the client and
56 the PEO with respect to the covered employees.

57 (11) “Professional employer services” means the service of entering into co-
58 employment relationships in which all or a majority of the employees employed by a client or in
59 a division or work unit of a client are covered employees.

60 (12) “Temporary help services organization” means a person that:

61 (A) Recruits and hires its own employees;

62 (B) Finds or is found by other organizations or businesses that need
63 temporary labor;

64 (C) Assigns its employees to perform work at or services for the other
65 organizations to support or supplement the other organizations’ workforces, or to provide
66 assistance in special work situations including employee absences, skill shortages, seasonal
67 workloads, or special assignments or projects; and

68 (D) Customarily attempts to reassign its employees to other organizations
69 when they finish each assignment.

70 Sec. 3. PEO registration requirement.

71 (a) No PEO shall offer health insurance coverage to a covered employee in the District
72 under a health benefits plan without first obtaining a certificate of registration from the Mayor;
73 provided, that a PEO lawfully operating in the District on the effective date of this act may
74 operate in the District without a certificate of registration until 180 days after the effective date
75 of this act.

76 (b) A PEO shall be subject to registration and regulation under this act regardless of the
77 terms used to describe its service offerings, such as “staff leasing company,” “registered staff
78 leasing company,” “employee leasing company,” “administrative employer,” or any other term.

79 (c) Each applicant for registration under this act shall provide the Mayor with:

80 (1) The name or names under which the PEO conducts business;

81 (2) The address of the principal place of business of the PEO and the address of
82 each office it maintains in the District;

83 (3) The PEO’s taxpayer or employer identification number;

84 (4) A list by jurisdiction of each name under which the PEO has operated in the
85 preceding 5 years, including any alternative names, names of predecessors and, if known,
86 successor business entities;

87 (5) A statement of ownership, which shall include the name and evidence of the
88 business experience of any person that, individually or acting in concert with one or more other
89 persons, owns or controls, directly or indirectly, 25% or more of the equity interests of the PEO;

90 (6) A statement of management, which shall include the name and evidence of the
91 business experience of any person who serves as president, chief executive officer, or otherwise
92 has the authority to act as senior executive officer of the PEO;

93 (7) A financial statement setting forth the financial condition of the PEO or PEO
94 group; and

95 (8) The most recent audit of the applicant, which may not be older than 13
96 months.

97 (d) PEOs in a PEO group may satisfy the financial reporting requirements in subsection
98 (e)(7) of this section on a combined or consolidated basis.

99 (e) A PEO shall renew its registration annually on or before May 1 of each year.

100 (f) A PEO applying for an initial registration shall pay a non-refundable fee of \$1,000. A
101 PEO applying to renew its registration shall pay a non-refundable fee of \$500.

102 (g) A PEO that is subject to this act and fails to register shall be subject to administrative
103 action under the Unauthorized Entities Act of 2006, effective March 8, 2007 (D.C. Law 16-232;
104 D.C. Official Code § 31-231 *et seq.*).

105 (i) All records, reports, and other information obtained from a PEO under this act may be
106 shared with the Department of Employment Services.

107 Sec. 4. Health insurance

108 (a) A fully-insured health benefit plan offered to the covered employees of a PEO shall
109 be considered a single employer health benefit plan.

110 (b) A health benefit plan offered to the covered employees of a PEO that is not fully-
111 insured shall be considered a multiple employer welfare arrangement and must comply with the
112 Health Insurance Portability and Accountability Federal Law Conformity and No-Fault Motor
113 Vehicle Insurance Act of 1998, effective April 13, 1999 (D.C. Law 12-209; D.C. Official Code
114 § 31-3301.01 *et. seq.*).

115 (c) A PEO that sponsors a fully-insured health benefits plan for covered employees of the
116 PEO and is registered under this act shall not be deemed to be engaging in the sale of insurance.

117 Sec. 5. Registration denial, suspension, revocation, and refusal to renew; civil penalties.

118 (a) The Mayor may deny a registration to an applicant or suspend, revoke, or refuse to
119 renew a registration if the applicant:

120 (1) Violates the provisions of this act or any rule issued by the Mayor under this
121 act;

122 (2) Makes a material misstatement in the application for registration;

123 (3) Engages in fraudulent or dishonest practices; or

124 (4) Demonstrates incompetency or untrustworthiness to act as a PEO under this
125 act.

126 (b) Upon a finding by the Mayor of a violation of subsection (a) of this section, the
127 Mayor may impose a civil penalty not to exceed \$1,000 for each violation.

128 Sec. 6. Rules.

129 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,
130 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code 2-501 *et seq.*), may issue rules to
131 implement the provisions of this act.

132 Sec. 7. Fiscal impact statement.

133 The Council adopts the fiscal impact statement as the fiscal impact statement in the
134 committee report as the fiscal impact statement required by section 4a of the General Legislative
135 Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-
136 301.47a).

137 Sec. 8. Effective date.

138 This act shall take effect upon its approval by the Mayor (or in the event of veto by the
139 Mayor, action by the Council to override the veto), a 30-day period of congressional review as

140 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
141 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
142 Columbia Register.