

HOUSE BILL No. 1332

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-9.1-2; IC 25-16-1.

Synopsis: Employment agencies. Provides that an employment agency (agency) commits price gouging if an agency's charge is in excess of three times the fair market value of the health care services of a health care employee or temporary worker. Raises the surety bond for an agency from \$1,000 to \$10,000. Raises the annual licensing fee for an agency from \$150 to \$200. Includes violation of laws by the agency as a reason to deny the issuance of an agency's license. Specifies that the filing of a list of fees, charges, and commissions does not cause the fees, charges, or commissions to be reasonable or conscionable. Prohibits an agency that contracts for services with a health care provider employer from charging fees, charges, or commissions in excess of three times the fair market value of the health care services rendered by the agency or by an applicant referred by the agency. Requires the agency to keep certain records for five years rather than two. Specifies that fees that are paid are not refundable. Amends the definition of "employment agency" to include the temporary performance of services. Prohibits an agency from giving false information or making a false representation to an employer regarding an applicant or the applicant's qualifications to provide service to the employer. Establishes the following requirements on an agency: (1) Timely billing to a health care provider employer. (2) Providing certain information on an employee's qualifications to a health care provider employer. (3) Requiring compliance with requirements relating to the qualifications of personnel employed. (4) Prohibiting the agency from restricting employment opportunities of its personnel. (5) Prohibiting the agency from recruiting employees of a health care provider to
(Continued next page)

Effective: July 1, 2022.

Ziemke, Pressel, Clere, Fleming

January 11, 2022, read first time and referred to Committee on Employment, Labor and Pensions.



Digest Continued

which the agency supplies personnel. (6) Requires the agency to reimburse a health care provider employer for fines for violations by the agency or an employee or personnel of the agency in the provision of health care services. (7) Prohibits an agency's contract with an employee or health care provider employer from requiring payment of liquidated damages, employment fees, or other compensation if the employee is hired as a permanent employee of the health care provider employer. Allows an applicant or employer to report an agency's violation and allows the applicant and employer a private right of action. Raises the fee for a conviction from \$10 to \$1,000. Allows the office of the attorney general to investigate and prosecute complaints. Provides that the division of consumer protection is responsible for the investigation of complaints. Specifies the procedures for investigating complaints against an agency. Requires an agency to: (1) screen prospective employees; (2) conduct background checks on employees before they work for a health care provider; (3) complete an employee performance review; (4) provide health care providers with certain information on the employees; and (5) annually submit a report. Makes conforming and stylistic changes, and removes obsolete language.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1332

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-9.1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. **(a)** For purposes of
3 this chapter, "price gouging" means **any of the following**:
4 **(1)** Charging a consumer an unconscionable amount for the sale
5 of fuel.
6 **(2) An employment agency under IC 25-16-1 charging a**
7 **health care provider employer under 25-16-1 an**
8 **unconscionable amount for a health care employee or**
9 **temporary worker.**
10 **(b)** Price gouging occurs **for the sale of fuel** if:
11 (1) the amount charged grossly exceeds the average price at
12 which fuel was readily obtainable within the retailer's trade area
13 during the seven (7) days immediately before the declaration of
14 emergency; and
15 (2) the increase in the amount charged is not attributable to cost



1 factors to the retailer, including replacement costs, taxes, and
2 transportation costs incurred by the retailer.

3 **(c) Price gouging for an employment agency occurs if an**
4 **employment agency's charge is in excess of three (3) times the fair**
5 **market value of the health care services. An employment agency**
6 **that contracts for services with a health care provider employer**
7 **may not charge unconscionable fees, charges, or commissions for**
8 **services rendered by:**

9 **(1) the employment agency; or**

10 **(2) an applicant referred by the employment agency and**
11 **assigned to and accepted by a health care provider employer**
12 **for performance of services that is billed by the employment**
13 **agency.**

14 SECTION 2. IC 25-16-1-0.5 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2022]: **Sec. 0.5. The following definitions apply throughout this**
17 **chapter:**

18 **(1) "Department" refers to the department of state revenue.**

19 **(2) "Director" refers to the director of the division of**
20 **consumer protection.**

21 **(3) "Division" refers to the division of consumer protection,**
22 **office of the attorney general.**

23 **(4) "Health care provider employer" means the following:**

24 **(A) A health facility as defined in IC 16-18-2-167.**

25 **(B) A home health agency as defined in IC 16-27-1.**

26 **(C) A hospice as defined in IC 16-25-1.1-3.**

27 **(D) A hospital as defined in IC 16-18-2-179(a).**

28 **(5) "Law enforcement agency" has the meaning set forth in**
29 **IC 35-47-15-2.**

30 SECTION 3. IC 25-16-1-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) The department
32 ~~of state revenue~~ shall require each and every applicant for a license to
33 execute to the state of Indiana a bond in the penal sum of ~~one ten~~
34 ~~thousand dollars (\$1,000); (\$10,000)~~, with a surety company, or with
35 two (2) solvent resident freeholders, conditioned that the obligor will
36 not violate any of the duties, terms, conditions, or provisions of this
37 chapter, and the bond so executed, shall be approved by the
38 department.

39 (b) The department is ~~hereby~~ authorized to cause an action to be
40 brought on such bond, in the name of the state of Indiana, for any
41 violation of any of the conditions of such bond, and may, after a
42 hearing, revoke such license, whenever, in its judgment, the licensee



1 has violated any of the provisions of this chapter, or has been convicted
 2 of the violation of any criminal law of this or any other state, subject to
 3 an appeal under IC 4-21.5 by the person, firm, limited liability
 4 company, or corporation whose license is so revoked.

5 (c) It is ~~hereby made the duty of~~ The attorney general to **shall**
 6 prosecute any action brought by the department of ~~state revenue~~ in such
 7 cases.

8 SECTION 4. IC 25-16-1-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. A fee of ~~one two~~
 10 hundred ~~fifty~~ dollars (~~\$150~~) (**\$200**) shall be paid annually for each
 11 license granted under the provisions of this chapter.

12 SECTION 5. IC 25-16-1-5 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. **(a)** Every applicant
 14 for a license shall file with the department of ~~state revenue~~ a written
 15 application, stating the name and address of the applicant, the name of
 16 the street and the number of the building in which the employment
 17 agency is to be maintained, the name of the person who is to have the
 18 general management of the office, the name under which the business
 19 of the office is to be carried on, and the business or occupation engaged
 20 in by the applicant for at least five (5) years immediately preceding the
 21 date of the application. Such applicant shall give as reference the
 22 names and addresses of at least three (3) persons of reputed business
 23 or professional integrity, located in the city or town where such
 24 applicant intends to conduct ~~his~~ **the applicant's** business. The
 25 applicant shall be rejected **or the license may not be renewed** if the
 26 department of ~~state revenue~~ finds:

27 **(1)** that the applicant is not of good moral or business integrity,
 28 **which may include violations of this chapter; or when**

29 **(2)** the premises for conducting the business of an employment
 30 agent are found upon investigation to be unfit for ~~such the~~
 31 **intended** use; or ~~if~~

32 **(3)** there is any good and sufficient reason within the meaning and
 33 purpose of this chapter for rejecting such application.

34 **(b)** No license will be granted to any person whose license has been
 35 revoked within a period of three (3) years next preceding the date of
 36 such application. Each application shall be granted or refused within
 37 thirty (30) days from date of filing.

38 SECTION 6. IC 25-16-1-6 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) Each applicant
 40 for a license shall file with ~~his~~ **the applicant's** application, a schedule
 41 of fees, charges, and commissions which ~~he~~ **the applicant** expects to
 42 charge and collect for ~~his~~ **the applicant's** service, together with a copy



1 of all forms and contracts to be used in the operation of the
2 **employment** agency.

3 (b) ~~Such~~ **The** schedule of fees, charges, and commissions **filed in**
4 **subsection (a)** may thereafter be changed by filing an amended or
5 supplemental schedule showing such fees, charges, and commissions
6 with the department of state revenue at least thirty (30) days before the
7 date provided for same to become effective. **However, the filing of**
8 **fees, charges, and commissions by the employment agency does not**
9 **cause the fees, charges, or commissions to be reasonable or**
10 **conscionable.** Any change in forms and contracts must also be filed
11 with the department of state revenue at least thirty (30) days before the
12 date provided for same to become effective.

13 (c) **The** schedule of fees, charges, and commissions to be charged
14 shall be posted in a conspicuous place in the office of such
15 **employment** agency. It shall be unlawful for any employment agent to
16 charge, demand, collect, or receive a greater compensation for any
17 service performed by ~~him~~ **the employment agent** than is specified in
18 such schedule filed with the department. ~~of state revenue.~~

19 (d) **For purposes of this subsection, "unconscionable" means in**
20 **excess of three (3) times greater than the fair market value of the**
21 **services. An employment agency that contracts for services with a**
22 **health care provider employer may not charge unconscionable**
23 **fees, charges, or commissions for services rendered by:**

24 (1) **the employment agency; or**

25 (2) **an applicant referred by the employment agency and**
26 **assigned to and accepted by a health care provider employer**
27 **for performance of services that are billed by the employment**
28 **agency.**

29 SECTION 7. IC 25-16-1-7 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. No **employment**
31 agency shall send out any applicant, or collect any fee from any
32 applicant without first having obtained a bona fide order for such
33 employment **or temporary performance of services.** No charge nor
34 advance fee of any kind shall be accepted until a position has been
35 secured for the applicant by the **employment** agency or through the
36 efforts of the **employment** agency. If any person fails, through no fault
37 of ~~his~~ **the person's** own, to obtain employment from the employer to
38 whom ~~he~~ **the person** has been referred by an employment agent, or if,
39 after having been engaged by an employer, such person is not permitted
40 by said employer to enter upon the employment ~~he~~ **the person** was sent
41 to perform, the whole amount paid by such person to the employment
42 agent as a fee shall be refunded to ~~him~~ **the person** on demand. If ~~such~~



1 ~~an applicant shall have~~ **has** obtained a position or employment through
 2 ~~such the~~ licensed agency, and ~~shall voluntarily leave leaves or abandon~~
 3 ~~such~~ **abandons the** position or employment ~~and~~ without reasonable
 4 cause, ~~he the applicant shall be~~ **is not** entitled to receive ~~no any~~ part
 5 of the fee paid by the applicant to the **employment** agency.

6 SECTION 8. IC 25-16-1-9 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. (a) Every licensed
 8 agency shall, **at a minimum**, keep a record for ~~two (2)~~ **five (5)** years
 9 of:

10 (1) every person referred or placed for employment **or temporary**
 11 **performance of services**, including the date the person was
 12 referred or placed in employment, the person's **full name, mailing**
 13 **address, age, nativity, date of birth, sex, color, Social Security**
 14 **number, and trade, occupation, or profession;**

15 (2) every person referred or placed for employment **or**
 16 **temporary performance of services with a health care**
 17 **provider employer, including records of the person's**
 18 **minimum qualifications, training, certification, licensure, and**
 19 **applicable continuing education requirements for the position**
 20 **in which the person will be working;**

21 (2) (3) the amount of the fee received **from the person referred**
 22 **or placed for employment** and rate of wages agreed upon; ~~and~~
 23 (3) (4) the name and address of the person, firm, limited liability
 24 company, or corporation with whom any of the applicants have
 25 been placed;

26 (5) any fees, charges, or commissions charged by the
 27 employment agency to employers where applicants have been
 28 referred or assigned; and

29 (6) if disciplined by the employment agency, the date and
 30 reason for the discipline.

31 (b) The department of ~~revenue~~ **and division** may inspect the records
 32 of an agency at any time.

33 SECTION 9. IC 25-16-1-10 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. All fees received
 35 by the department of ~~state revenue~~ under this chapter shall be paid into
 36 the state treasury by the department **and are not refundable.**

37 SECTION 10. IC 25-16-1-11, AS AMENDED BY P.L.145-2006,
 38 SECTION 160, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2022]: Sec. 11. (a) The term "employment
 40 agency", as used in this chapter, means any person, firm, limited
 41 liability company, or corporation, who for hire or with a view to profit,
 42 shall undertake or offer to secure employment, **temporary**



1 **performance of services**, or help through the medium of card, circular,
 2 pamphlet, or any medium whatsoever, or through the display of a sign
 3 or bulletin, offer to secure employment or help, or give information as
 4 to where employment, **temporary performance of services**, or help
 5 may be secured.

6 (b) Nothing in this chapter shall apply to the business and vocation
 7 of babysitting.

8 (c) Nothing in this chapter shall apply to charitable and benevolent
 9 organizations and associations approved by the division of family
 10 resources. All charitable and benevolent organizations and associations
 11 approved by the division of family resources shall, before being
 12 authorized to conduct such employment agency or department, secure
 13 a permit from the department of state revenue by filing an application
 14 giving such information as may be required. No charge shall be made
 15 for the issuance of such permit, which may be revoked on the same
 16 terms as a license is revocable.

17 SECTION 11. IC 25-16-1-16 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 16. ~~No~~ **An**
 19 **employment agency shall may not do the following:**

20 (1) Publish, ~~or~~ cause to be published, ~~or~~ circulate, **or verbally**
 21 **make** any false or fraudulent or misleading notice, advertisement,
 22 or statement. ~~or~~

23 (2) Give any false information or make any false representation
 24 or promise concerning work, ~~or~~ employment, or help to any ~~one~~
 25 **person** who ~~shall register registers~~ for help or employment. ~~and~~
 26 ~~no such agency shall~~

27 (3) Give any false information or make any false
 28 **representation to an employer regarding an applicant or the**
 29 **applicant's qualifications to provide service to the employer.**

30 (4) Make any false entry in any book, record, or register kept by
 31 it in connection with its business.

32 SECTION 12. IC 25-16-1-16.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2022]: **Sec. 16.5. (a) As used in this section,**
 35 **"timely" means within three (3) months of the date of the service**
 36 **rendered or a period less than three (3) months if stated in a**
 37 **contract between an employment agency and a health care**
 38 **provider employer.**

39 (b) **An employment agency that contracts with a health care**
 40 **provider employer to undertake or offer to secure employment,**
 41 **temporary performance of services, or help shall comply with the**
 42 **following:**



1 **(1) An employment agency shall timely bill a health care**
 2 **provider employer for any services provided by:**

3 **(A) the employment agency to the health care provider**
 4 **employer; or**

5 **(B) an applicant referred by the employment agency and**
 6 **assigned to and accepted by a health care provider**
 7 **employer for performance of services that are billed by the**
 8 **employment agency.**

9 **(2) An employment agency shall provide the information**
 10 **described in section 9(a)(2) of this chapter concerning a**
 11 **person whom the employment agency referred to or placed**
 12 **with a health care provider employer upon the employer's**
 13 **request.**

14 **(3) An employment agency shall comply with the**
 15 **requirements relating to the qualifications of personnel that**
 16 **the employment agency supplies, by the type of health care**
 17 **provider, including state and federal requirements for**
 18 **criminal records checks and requirements relating to testing**
 19 **for and vaccination against infectious disease.**

20 **(4) An employment agency may not:**

21 **(A) restrict in any manner the employment opportunities**
 22 **of the personnel the employment agency supplies; and**

23 **(B) directly or indirectly, recruit employees of any health**
 24 **care provider to which the employment agency supplies**
 25 **personnel.**

26 **(5) The employment agency shall reimburse a health care**
 27 **provider for any fine or other civil penalty paid by the health**
 28 **care provider employer as a result of a violation of any**
 29 **regulatory requirement in the provision of health care**
 30 **services by the employment agency or by any employee or**
 31 **personnel of the employment agency.**

32 **(6) The employment agency may not, in a contract with any**
 33 **employee or health care provider employer, require the**
 34 **payment of liquidated damages, employment fees, or other**
 35 **compensation if the employee is hired as a permanent**
 36 **employee of a health care provider employer.**

37 **(c) Nothing in this chapter impairs the terms of a contract that**
 38 **was entered into before July 1, 2022.**

39 **SECTION 13. IC 25-16-1-17.5 IS ADDED TO THE INDIANA**
 40 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 41 **[EFFECTIVE JULY 1, 2022]: Sec. 17.5. An applicant or employer**
 42 **may report an employment agency's violation of this chapter to the**



1 department and the office of the attorney general for investigation
 2 by the division. The division shall inspect a reported violation
 3 within seven (7) business days. After the division concludes the
 4 investigation, the department shall take any action it considers
 5 appropriate as permitted in this chapter.

6 SECTION 14. IC 25-16-1-18 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 18. (a) A person who
 8 violates this chapter commits a Class B misdemeanor. The Indiana
 9 department of state revenue shall enforce this chapter and institute
 10 criminal or civil proceedings whenever informed of any violation of it:
 11 **the department determines a violation has been committed.**

12 (b) Upon instituting proceedings **under this section**, the name of
 13 the department shall be entered upon the docket, and upon conviction
 14 a fee of ~~ten one thousand~~ dollars (~~\$10,000~~) (**\$1,000**) shall be allowed
 15 in favor of the department, which fee, when collected, shall be
 16 accounted for as other money received by the department under this
 17 chapter.

18 (c) The department may ~~promulgate~~ **adopt** rules and regulations as
 19 necessary for the supervision of employment agencies.

20 SECTION 15. IC 25-16-1-19 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2022]: **Sec. 19. An applicant and employer**
 23 **have a private right of action against an employment agency that**
 24 **violates this chapter. A cause of action may include the recovery of**
 25 **finances or other damages levied by regulatory agencies that can be**
 26 **reasonably attributed to the acts or omissions of the employment**
 27 **agency or the employment agency's designees.**

28 SECTION 16. IC 25-16-1-20 IS ADDED TO THE INDIANA
 29 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2022]: **Sec. 20. The office of the attorney**
 31 **general, under the conditions specified in this chapter, may receive,**
 32 **investigate, and prosecute complaints concerning employment**
 33 **agencies.**

34 SECTION 17. IC 25-16-1-21 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2022]: **Sec. 21. The division is responsible for**
 37 **the investigation of complaints concerning employment agencies.**

38 SECTION 18. IC 25-16-1-22 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2022]: **Sec. 22. A complaint must be written**
 41 **and signed by the complainant and initially filed with the director.**
 42 **Except for employees of the attorney general's office acting in their**



1 **official capacity, a complaint may be filed by any person.**

2 SECTION 19. IC 25-16-1-23 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2022]: **Sec. 23. The director has the following**
5 **duties and powers:**

6 (1) **The director shall make an initial determination as to the**
7 **merit of each complaint. A copy of a complaint having merit**
8 **must be submitted to the department.**

9 (2) **The director shall through any reasonable means notify**
10 **the employment agency of:**

11 (A) **the nature and ramifications of the complaint; and**

12 (B) **the duty of the department to attempt to resolve the**
13 **complaint through negotiation.**

14 (3) **The director shall report any pertinent information**
15 **regarding the status of the complaint to the complainant.**

16 (4) **The director may investigate any written complaint**
17 **against an employment agency. The investigation is limited to**
18 **those areas in which there appears to be a violation of statutes**
19 **governing the licensed entity.**

20 (5) **The director may subpoena witnesses and send for and**
21 **compel the production of books, records, papers, and**
22 **documents for the furtherance of any investigation under this**
23 **chapter. The circuit or superior court located in the county**
24 **where the subpoena is issued shall enforce any subpoena**
25 **issued by the director.**

26 SECTION 20. IC 25-16-1-24 IS ADDED TO THE INDIANA
27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2022]: **Sec. 24. (a) If, at any time before the**
29 **director files the director's recommendations with the attorney**
30 **general, the department files with the director a statement signed**
31 **by the employment agency and the complainant that the complaint**
32 **has been resolved, the director may not take further action.**

33 (b) **For a period of thirty (30) days after the director has**
34 **notified the department and the employment agency that a**
35 **complaint has been filed, the division may not conduct any**
36 **investigation or take any action, unless requested by the**
37 **department. If, during the thirty (30) day period, the department**
38 **requests an extension, the director shall grant the extension for a**
39 **period not exceeding an additional twenty (20) days. If at any time**
40 **during the thirty (30) day period or an extension granted under**
41 **this section the department notifies the director of the**
42 **department's intention not to proceed further to resolve the**



1 **complaint, the division may proceed immediately under this**
 2 **chapter.**

3 SECTION 21. IC 25-16-1-25 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2022]: **Sec. 25. If:**

6 (1) a statement of settlement has not been filed by the
 7 department under section 24 of this chapter; and

8 (2) after conducting an investigation, the director believes that
 9 the employment agency should be subjected to disciplinary
 10 sanctions by the department;

11 the director shall report the director's findings and
 12 recommendations to the attorney general. After receiving the
 13 director's report, the attorney general may prosecute the matter on
 14 behalf of the state.

15 SECTION 22. IC 25-16-1-26 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2022]: **Sec. 26. At the hearing conducted**
 18 **under this chapter, the department may call witnesses in addition**
 19 **to those presented by the state or the employment agency.**

20 SECTION 23. IC 25-16-1-27 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2022]: **Sec. 27. (a) All complaints and**
 23 **information pertaining to the complaints are confidential until the**
 24 **attorney general files notice with the department to prosecute the**
 25 **employment agency.**

26 (b) A person employed by the office of the attorney general, the
 27 department, or any person not a party to the complaint may not
 28 disclose or further a disclosure of information concerning the
 29 complaint unless the disclosure is:

30 (1) required under law;

31 (2) required for the advancement of an investigation; or

32 (3) made to a law enforcement agency that has jurisdiction or
 33 is reasonably believed to have jurisdiction over a person or
 34 matter involved in the complaint.

35 SECTION 24. IC 25-16-1-28 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2022]: **Sec. 28. (a) The employment agency**
 38 **shall have specific procedures that are written and implemented**
 39 **for the screening of prospective employees.**

40 (b) Before engaging an employee for services for a health care
 41 provider, the employment agency shall do the following:

42 (1) Make specific inquiries about the prospective employee,



1 including the following:

2 (A) That the prospective employee's licenses, certifications,
3 or registrations are in accordance with the applicable state
4 laws or rules for the position for which the prospective
5 employee is applying.

6 (B) Discipline levied against any license, certificate, or
7 registration that the prospective employee holds in
8 Indiana, including licenses that are active, inactive, retired,
9 surrendered, or expired.

10 (C) Discipline levied against any license, certificate, or
11 registration that the prospective employee holds in another
12 jurisdiction, including licenses that are active, inactive,
13 retired, surrendered, or expired.

14 (2) Check with all professional registries the employment
15 agency has reason to believe contain information on the
16 prospective employee before using that prospective employee,
17 including registries in other jurisdictions.

18 (3) Comply with applicable state and federal laws, rules, and
19 regulations related to the qualifications for employing a
20 health care provider who is licensed under this title, including
21 performing criminal background checks.

22 (c) If a prospective employee has not provided services for
23 monetary compensation for twenty-four (24) consecutive months,
24 the prospective employee must complete a:

25 (1) training and competency evaluation program; or

26 (2) competency evaluation program;

27 before being referred to a health care provider.

28 SECTION 25. IC 25-16-1-29 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2022]: Sec. 29. An employment agency shall
31 complete a performance review of every employee at least once
32 every twelve (12) months. The review must include the following:

33 (1) Verification that the individual has an active Indiana
34 license for the position in which they are employed.

35 (2) A review of every applicable registry in each jurisdiction
36 the employee holds a license.

37 (3) A review of any licensing discipline received in the
38 previous twelve (12) months.

39 (4) A review of any pending litigation against the employee's
40 license.

41 (5) A review of any evaluations, feedback, or complaints
42 received from a health care provider for which the employee



1 **has provided services.**

2 SECTION 26. IC 25-16-1-30 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2022]: **Sec. 30. (a) Before referring an**
5 **employee to a health care provider, the employment agency shall**
6 **do the following:**

7 **(1) Inform the health care provider if the employee has any**
8 **disciplinary sanctions levied against the employee's Indiana**
9 **license.**

10 **(2) Inform the health care provider if the employee has any**
11 **disciplinary sanctions levied against a license held in another**
12 **jurisdiction.**

13 **(3) Inform the health care provider if the employee has been**
14 **labeled "do not return", or similar status, by another health**
15 **care provider for issues related to patient safety, unacceptable**
16 **clinical practices, or criminal activity.**

17 **(4) As permitted by state and federal law, provide all**
18 **information about the employee as requested by the health**
19 **care provider.**

20 **(5) Verify there has not been a period of twenty-four (24)**
21 **consecutive months when the employee has not provided**
22 **services using the employee's license for monetary**
23 **compensation.**

24 **(6) Avoid mischaracterizing the qualifications, training, and**
25 **experience of an employee.**

26 **(b) The employment agency shall inform a health care provider**
27 **within seven (7) days of becoming aware that the employee placed**
28 **with the health care provider:**

29 **(1) has had any disciplinary sanctions levied against the**
30 **employee's license; or**

31 **(2) has been labeled "do not return", or similar status, by**
32 **another health care provider for issues related to patient**
33 **safety, unacceptable clinical practices, or criminal activity.**

34 **(c) If an employee has been labeled "do not return", or similar**
35 **status, by a health care provider for issues related to patient safety,**
36 **unacceptable clinical practices, or criminal activity, the**
37 **employment agency shall, within three (3) days, inform the**
38 **employee of the label status and that the employee has a right to**
39 **dispute the status. The department shall conduct a hearing not**
40 **more than fifteen (15) business days after receiving an employee's**
41 **dispute of the employee's status. If the department finds in favor**
42 **of the employee, the employment agency shall expunge the disputed**



1 **status from the employee's records.**

2 SECTION 27. IC 25-16-1-31 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2022]: **Sec. 31. An employment agency shall,**
5 **within seven (7) days of becoming aware, inform the office of the**
6 **attorney general, in writing, of unusual occurrences that directly**
7 **threaten the welfare, safety, or health of the public, including the**
8 **following:**

- 9 (1) **Diversion of a legend drug.**
10 (2) **Diversion of a controlled substance.**
11 (3) **Conviction of any of the following crimes:**
12 (A) **A sex crime under IC 35-42-4.**
13 (B) **A felony controlled substance crime under IC 35-48-4.**
14 (C) **A crime of violence as defined in IC 35-50-1-2(a).**
15 (D) **Any other crime, determined by the department, to**
16 **have a direct bearing on the employee's ability to practice**
17 **the job.**
18 (4) **Patient abuse.**
19 (5) **Engagement in a sexual contact with a patient.**
20 (6) **Disciplinary action in another jurisdiction.**
21 (7) **Any employee who has been labeled "do not return", or**
22 **similar status, by a health care provider for issues related to**
23 **patient safety, unacceptable clinical practices, or criminal**
24 **activity.**
25 (8) **Any potential licensing violation as defined by IC 25-1-9-4.**

26 SECTION 28. IC 25-16-1-32 IS ADDED TO THE INDIANA
27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2022]: **Sec. 32. (a) The employment agency**
29 **shall submit an annual statistical report to the department that**
30 **includes the following information:**

- 31 (1) **Mean, median, and average salaries and hourly pay rates**
32 **of employees, by employment type.**
33 (2) **Number of employees.**
34 (3) **Number of employees terminated.**
35 (4) **Number of employees reported to the office of the attorney**
36 **general.**

37 (b) **For every person placed for employment or temporary**
38 **performance of services by an employment agency with a health**
39 **care provider employer, the employment agency shall annually**
40 **report the following information:**

- 41 (1) **The amount charged for each person.**
42 (2) **The amount paid to each person.**



1 **(3) The amount of payment received that is retained by the**
2 **employment agency.**
3 **(4) Any other information that the department, in conjunction**
4 **with the office of the secretary of family and social services,**
5 **determines is relevant to determine how much health care**
6 **provider employers who participate in Medicaid and**
7 **Medicare are charged by employment agency services.**
8 **(c) An employment agency shall submit the report required**
9 **under this section to the department before January 31 each year.**
10 SECTION 29. IC 25-16-1-33 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2022]: **Sec. 33. The delegation of any**
13 **authority by the employment agency does not diminish the**
14 **responsibilities of the employment agency as required by this**
15 **chapter.**

