

**SUBSTITUTE FOR
HOUSE BILL NO. 5715**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20173a, 21564, 21911, and 21913 (MCL
333.20173a, 333.21564, 333.21911, and 333.21913), section 20173a as
amended by 2017 PA 167, section 21564 as added by 1990 PA 252, and
sections 21911 and 21913 as added by 2017 PA 172, and by adding
sections 20173c, 21564a, and 21914.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20173a. (1) Except as otherwise provided in subsection
2 (2), a covered facility shall not employ, independently contract
3 with, or grant clinical privileges to an individual who regularly
4 has direct access to or provides direct services to patients or
5 residents in the covered facility if the individual satisfies 1 or



1 more of the following:

2 (a) Has been convicted of a relevant crime described under 42
3 USC 1320a-7(a).

4 (b) Has been convicted of any of the following felonies, an
5 attempt or conspiracy to commit any of those felonies, or any other
6 state or federal crime that is similar to the felonies described in
7 this subdivision, other than a felony for a relevant crime
8 described under 42 USC 1320a-7(a), unless 15 years have lapsed
9 since the individual completed all of the terms and conditions of
10 his or her sentencing, parole, and probation for that conviction
11 before the date of application for employment or clinical
12 privileges or the date of the execution of the independent
13 contract:

14 (i) A felony that involves the intent to cause death or serious
15 impairment of a body function, that results in death or serious
16 impairment of a body function, that involves the use of force or
17 violence, or that involves the threat of the use of force or
18 violence.

19 (ii) A felony involving cruelty or torture.

20 (iii) A felony under chapter XXA of the Michigan penal code,
21 1931 PA 328, MCL 750.145m to 750.145r.

22 (iv) A felony involving criminal sexual conduct.

23 (v) A felony involving abuse or neglect.

24 (vi) A felony involving the use of a firearm or dangerous
25 weapon.

26 (vii) A felony involving the diversion or adulteration of a
27 prescription drug or other medications.

28 (c) Has been convicted of a felony or an attempt or conspiracy
29 to commit a felony, other than a felony for a relevant crime



1 described under 42 USC 1320a-7(a) or a felony described under
2 subdivision (b), unless 10 years have lapsed since the individual
3 completed all of the terms and conditions of his or her sentencing,
4 parole, and probation for that conviction ~~prior to~~**before** the date
5 of application for employment or clinical privileges or the date of
6 the execution of the independent contract.

7 (d) Has been convicted of any of the following misdemeanors,
8 other than a misdemeanor for a relevant crime described under 42
9 USC 1320a-7(a), or a state or federal crime that is substantially
10 similar to the misdemeanors described in this subdivision, within
11 the 10 years immediately preceding the date of application for
12 employment or clinical privileges or the date of the execution of
13 the independent contract:

14 (i) A misdemeanor involving the use of a firearm or dangerous
15 weapon with the intent to injure, the use of a firearm or dangerous
16 weapon that results in a personal injury, or a misdemeanor
17 involving the use of force or violence or the threat of the use of
18 force or violence.

19 (ii) A misdemeanor under chapter XXA of the Michigan penal
20 code, 1931 PA 328, MCL 750.145m to 750.145r.

21 (iii) A misdemeanor involving criminal sexual conduct.

22 (iv) A misdemeanor involving cruelty or torture unless
23 otherwise provided under subdivision (e).

24 (v) A misdemeanor involving abuse or neglect.

25 (e) Has been convicted of any of the following misdemeanors,
26 other than a misdemeanor for a relevant crime described under 42
27 USC 1320a-7(a), or a state or federal crime that is substantially
28 similar to the misdemeanors described in this subdivision, within
29 the 5 years immediately preceding the date of application for



1 employment or clinical privileges or the date of the execution of
2 the independent contract:

3 (i) A misdemeanor involving cruelty if committed by an
4 individual who is less than 16 years of age.

5 (ii) A misdemeanor involving home invasion.

6 (iii) A misdemeanor involving embezzlement.

7 (iv) A misdemeanor involving negligent homicide or a violation
8 of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL
9 257.601d.

10 (v) A misdemeanor involving larceny unless otherwise provided
11 under subdivision (g).

12 (vi) A misdemeanor of retail fraud in the second degree unless
13 otherwise provided under subdivision (g).

14 (vii) Any other misdemeanor involving assault, fraud, theft, or
15 the possession or delivery of a controlled substance unless
16 otherwise provided under subdivision (d), (f), or (g).

17 (f) Has been convicted of any of the following misdemeanors,
18 other than a misdemeanor for a relevant crime described under 42
19 USC 1320a-7(a), or a state or federal crime that is substantially
20 similar to the misdemeanors described in this subdivision, within
21 the 3 years immediately preceding the date of application for
22 employment or clinical privileges or the date of the execution of
23 the independent contract:

24 (i) A misdemeanor for assault if there was no use of a firearm
25 or dangerous weapon and no intent to commit murder or inflict great
26 bodily injury.

27 (ii) A misdemeanor of retail fraud in the third degree unless
28 otherwise provided under subdivision (g).



1 (iii) A misdemeanor under part 74 unless otherwise provided
2 under subdivision (g).

3 (g) Has been convicted of any of the following misdemeanors,
4 other than a misdemeanor for a relevant crime described under 42
5 USC 1320a-7(a), or a state or federal crime that is substantially
6 similar to the misdemeanors described in this subdivision, within
7 the year immediately preceding the date of application for
8 employment or clinical privileges or the date of the execution of
9 the independent contract:

10 (i) A misdemeanor under part 74 if the individual, at the time
11 of conviction, is under the age of 18.

12 (ii) A misdemeanor for larceny or retail fraud in the second or
13 third degree if the individual, at the time of conviction, is under
14 the age of 16.

15 (h) Is the subject of an order or disposition under section
16 16b of chapter IX of the code of criminal procedure, 1927 PA 175,
17 MCL 769.16b.

18 (i) Engages in conduct that becomes the subject of a
19 substantiated finding of neglect, abuse, or misappropriation of
20 property by a state or federal agency under an investigation
21 conducted in accordance with 42 USC 1395i-3 or 1396r.

22 (2) Except as otherwise provided in this subsection or
23 subsection (5), a covered facility shall not employ, independently
24 contract with, or grant privileges to an individual who regularly
25 has direct access to or provides direct services to patients or
26 residents in the covered facility until the covered facility or
27 staffing agency has a criminal history check conducted in
28 compliance with this section or has received criminal history
29 record information in compliance with subsections (3) and (10).



1 This subsection and subsection (1) do not apply to any of the
2 following:

3 (a) An individual who is employed by, under independent
4 contract to, or granted clinical privileges in a covered facility
5 before April 1, 2006. On or before April 1, 2011, an individual who
6 is exempt under this subdivision and who has not been the subject
7 of a criminal history check conducted in compliance with this
8 section shall provide the department of state police with a set of
9 fingerprints and the department of state police shall input those
10 fingerprints into the automated fingerprint identification system
11 database established under subsection (13). An individual who is
12 exempt under this subdivision is not limited to working within the
13 covered facility with which he or she is employed by, under
14 independent contract to, or granted clinical privileges on April 1,
15 2006 but may transfer to another covered facility, adult foster
16 care facility, or mental health facility. If an individual who is
17 exempt under this subdivision is subsequently convicted of a crime
18 described under subsection (1)(a) to (g) or found to be the subject
19 of a substantiated finding described under subsection (1)(i) or an
20 order or disposition described under subsection (1)(h), or is found
21 to have been convicted of a relevant crime described under 42 USC
22 1320a-7(a), then he or she is no longer exempt and shall be
23 terminated from employment or denied employment or clinical
24 privileges.

25 (b) An individual who is under an independent contract with a
26 covered facility if he or she is not under the facility's control
27 and the services for which he or she is contracted are not directly
28 related to the provision of services to a patient or resident or if
29 the services for which he or she is contracted allow for direct



1 access to the patients or residents but are not performed on an
2 ongoing basis. This exception includes, but is not limited to, an
3 individual who is under an independent contract with the covered
4 facility to provide utility, maintenance, construction, or
5 communications services.

6 (3) An individual who applies for employment either as an
7 employee or as an independent contractor or for clinical privileges
8 with a staffing agency or covered facility and who has not been the
9 subject of a criminal history check conducted in compliance with
10 this section shall give written consent at the time of application
11 for the department of state police to conduct a criminal history
12 check under this section, along with identification acceptable to
13 the department of state police. If the applicant has been the
14 subject of a criminal history check conducted in compliance with
15 this section, the applicant shall give written consent at the time
16 of application for the covered facility or staffing agency to
17 obtain the criminal history record information as prescribed in
18 subsection (4) from the relevant licensing or regulatory department
19 and for the department of state police to conduct a criminal
20 history check under this section if the requirements of subsection
21 (10) are not met and a request to the Federal Bureau of
22 Investigation to make a determination of the existence of any
23 national criminal history pertaining to the applicant is necessary,
24 along with identification acceptable to the department of state
25 police. ~~Upon~~ **On** receipt of the written consent to obtain the
26 criminal history record information and identification required
27 under this subsection, the staffing agency or covered facility that
28 has made a ~~good faith~~ **good-faith** offer of employment or an
29 independent contract or clinical privileges to the applicant shall



1 request the criminal history record information from the relevant
2 licensing or regulatory department and shall make a request
3 regarding that applicant to the relevant licensing or regulatory
4 department to conduct a check of all relevant registries in the
5 manner required in subsection (4). If the requirements of
6 subsection (10) are not met and a request to the Federal Bureau of
7 Investigation to make a subsequent determination of the existence
8 of any national criminal history pertaining to the applicant is
9 necessary, the covered facility or staffing agency shall proceed in
10 the manner required in subsection (4). A staffing agency that
11 employs an individual who regularly has direct access to or
12 provides direct services to patients or residents under an
13 independent contract with a covered facility shall submit
14 information regarding the criminal history check conducted by the
15 staffing agency to the covered facility that has made a ~~good-faith~~
16 **good-faith** offer of independent contract to that applicant.

17 (4) Upon receipt of the written consent to conduct a criminal
18 history check and identification required under subsection (3), a
19 staffing agency or covered facility that has made a ~~good-faith~~
20 **good-faith** offer of employment or an independent contract or
21 clinical privileges to the applicant shall make a request to the
22 department of state police to conduct a criminal history check on
23 the applicant, to input the applicant's fingerprints into the
24 automated fingerprint identification system database, and to
25 forward the applicant's fingerprints to the Federal Bureau of
26 Investigation. The department of state police shall request the
27 Federal Bureau of Investigation to make a determination of the
28 existence of any national criminal history pertaining to the
29 applicant. The applicant shall provide the department of state



1 police with a set of fingerprints. The request ~~shall~~**must** be made
2 in a manner prescribed by the department of state police. The
3 staffing agency or covered facility shall make the written consent
4 and identification available to the department of state police. The
5 staffing agency or covered facility shall make a request regarding
6 that applicant to the relevant licensing or regulatory department
7 to conduct a check of all relevant registries established according
8 to federal and state law and regulations for any substantiated
9 findings of abuse, neglect, or misappropriation of property. If the
10 department of state police or the Federal Bureau of Investigation
11 charges a fee for conducting the criminal history check, the
12 staffing agency or covered facility shall pay the cost of the
13 charge. Except as otherwise provided in this subsection, if the
14 department of state police or the Federal Bureau of Investigation
15 charges a fee for conducting the criminal history check, the
16 department shall pay the cost of or reimburse the charge for a
17 covered facility that is a home for the aged. After October 1,
18 2018, if the department of state police or the Federal Bureau of
19 Investigation charges a fee for conducting the criminal history
20 check, the department shall pay the cost of the charge up to 40
21 criminal history checks per year for a covered facility that is a
22 home for the aged with fewer than 100 beds and 50 criminal history
23 checks per year for a home for the aged with 100 beds or more. The
24 staffing agency or covered facility shall not seek reimbursement
25 for a charge imposed by the department of state police or the
26 Federal Bureau of Investigation from the individual who is the
27 subject of the criminal history check. A prospective employee or a
28 prospective independent contractor covered under this section may
29 not be charged for the cost of a criminal history check required



1 under this section. The department of state police shall conduct a
 2 criminal history check on the applicant named in the request. The
 3 department of state police shall provide the department with a
 4 written report of the criminal history check conducted under this
 5 subsection. The report shall contain any criminal history record
 6 information on the applicant maintained by the department of state
 7 police. The department of state police shall provide the results of
 8 the Federal Bureau of Investigation determination to the department
 9 within 30 days after the request is made. If the requesting
 10 staffing agency or covered facility is not a state department or
 11 agency and if criminal history record information is disclosed on
 12 the written report of the criminal history check or the Federal
 13 Bureau of Investigation determination that resulted in a
 14 conviction, the department shall notify the staffing agency or
 15 covered facility and the applicant in writing of the type of crime
 16 disclosed on the written report of the criminal history check or
 17 the Federal Bureau of Investigation determination without
 18 disclosing the details of the crime. Any charges imposed by the
 19 department of state police or the Federal Bureau of Investigation
 20 for conducting a criminal history check or making a determination
 21 under this subsection ~~shall~~**must** be paid in the manner required
 22 under this subsection. The notice ~~shall~~**must** include a statement
 23 that the applicant has a right to appeal the information relied
 24 ~~upon~~**on** by the staffing agency or covered facility in making its
 25 decision regarding his or her employment eligibility based on the
 26 criminal history check. The notice ~~shall~~**must** also include
 27 information regarding where to file and describing the appellate
 28 procedures established under section 20173b.

29 (5) If a covered facility determines it necessary to employ or



1 grant clinical privileges to an applicant before receiving the
2 results of the applicant's criminal history check or criminal
3 history record information under this section, the covered facility
4 may conditionally employ or grant conditional clinical privileges
5 to the individual if all of the following apply:

6 (a) The covered facility requests the criminal history check
7 or criminal history record information under this section ~~upon~~**on**
8 conditionally employing or conditionally granting clinical
9 privileges to the individual.

10 (b) The individual signs a statement in writing that indicates
11 all of the following:

12 (i) That he or she has not been convicted of 1 or more of the
13 crimes that are described in subsection (1)(a) to (g) within the
14 applicable time period prescribed by each subdivision respectively.

15 (ii) That he or she is not the subject of an order or
16 disposition described in subsection (1)(h).

17 (iii) That he or she has not been the subject of a substantiated
18 finding as described in subsection (1)(i).

19 (iv) That he or she agrees that, if the information in the
20 criminal history check conducted under this section does not
21 confirm the individual's statements under subparagraphs (i) to (iii),
22 his or her employment or clinical privileges will be terminated by
23 the covered facility as required under subsection (1) unless and
24 until the individual appeals and can prove that the information is
25 incorrect.

26 (v) That he or she understands that the conditions described
27 in subparagraphs (i) to (iv) may result in the termination of his or
28 her employment or clinical privileges and that those conditions are
29 good cause for termination.



1 (c) Except as otherwise provided in this subdivision, the
2 covered facility does not permit the individual to have regular
3 direct access to or provide direct services to patients or
4 residents in the covered facility without supervision until the
5 criminal history check or criminal history record information is
6 obtained and the individual is eligible for that employment or
7 clinical privileges. If required under this subdivision, the
8 covered facility shall provide on-site supervision of an individual
9 in the covered facility on a conditional basis under this
10 subsection by an individual who has undergone a criminal history
11 check conducted in compliance with this section. A covered facility
12 may permit an individual in the covered facility on a conditional
13 basis under this subsection to have regular direct access to or
14 provide direct services to patients or residents in the covered
15 facility without supervision if all of the following conditions are
16 met:

17 (i) The covered facility, at its own expense and before the
18 individual has direct access to or provides direct services to
19 patients or residents of the covered facility, conducts a search of
20 public records on that individual through the internet criminal
21 history access tool maintained by the department of state police
22 and the results of that search do not uncover any information that
23 ~~would indicate~~ **indicates** that the individual is not eligible to
24 have regular direct access to or provide direct services to
25 patients or residents under this section.

26 (ii) Before the individual has direct access to or provides
27 direct services to patients or residents of the covered facility,
28 the individual signs a statement in writing that he or she has
29 resided in this state without interruption for at least the



1 immediately preceding 12-month period.

2 (iii) If applicable, the individual provides to the department
3 of state police a set of fingerprints on or before the expiration
4 of 10 business days following the date the individual was
5 conditionally employed or granted conditional clinical privileges
6 under this subsection.

7 (6) The department shall develop and distribute a model form
8 for the statements required under subsection (5) (b) and (c). The
9 department shall make the model form available to covered
10 facilities ~~upon~~ **on** request at no charge.

11 (7) If an individual is employed as a conditional employee or
12 is granted conditional clinical privileges under subsection (5),
13 and the information under subsection (3) or report under subsection
14 (4) does not confirm the individual's statement under subsection
15 (5) (b) (i) to (iii), the covered facility shall terminate the
16 individual's employment or clinical privileges as required by
17 subsection (1).

18 (8) An individual who knowingly provides false information
19 regarding his or her identity, criminal convictions, or
20 substantiated findings on a statement described in subsection
21 (5) (b) (i) to (iii) is guilty of a misdemeanor punishable by
22 imprisonment for not more than 93 days or a fine of not more than
23 \$500.00, or both.

24 (9) A staffing agency or covered facility shall use criminal
25 history record information obtained under subsection (3) or (4)
26 only for the purpose of evaluating an applicant's qualifications
27 for employment, an independent contract, or clinical privileges in
28 the position for which he or she has applied and for the purposes
29 of subsections (5) and (7). A staffing agency or covered facility



1 or an employee of the staffing agency or covered facility shall not
2 disclose criminal history record information obtained under
3 subsection (3) or (4) to a person who is not directly involved in
4 evaluating the applicant's qualifications for employment, an
5 independent contract, or clinical privileges. An individual who
6 knowingly uses or disseminates the criminal history record
7 information obtained under subsection (3) or (4) in violation of
8 this subsection is guilty of a misdemeanor punishable by
9 imprisonment for not more than 93 days or a fine of not more than
10 \$1,000.00, or both. Except for a knowing or intentional release of
11 false information, a staffing agency or covered facility has no
12 liability in connection with a criminal history check conducted in
13 compliance with this section or the release of criminal history
14 record information under this subsection.

15 (10) ~~Upon~~**On** consent of an applicant as required in subsection
16 (3) and ~~upon~~**on** request from a staffing agency or covered facility
17 that has made a ~~good faith~~**good-faith** offer of employment or an
18 independent contract or clinical privileges to the applicant, the
19 relevant licensing or regulatory department shall review the
20 criminal history record information, if any, and notify the
21 requesting staffing agency or covered facility of the information
22 in the manner prescribed in subsection (4). Until the department of
23 state police can participate with the Federal Bureau of
24 Investigation's automatic notification system similar to the system
25 required of the state police under subsection (13) and federal
26 regulations allow the federal criminal record to be used for
27 subsequent authorized uses, as determined in an order issued by the
28 department, a staffing agency or covered facility may rely on the
29 criminal history record information provided by the relevant



1 licensing or regulatory department under this subsection and a
2 request to the Federal Bureau of Investigation to make a subsequent
3 determination of the existence of any national criminal history
4 pertaining to the applicant is not necessary if all of the
5 following requirements are met:

6 (a) The criminal history check was conducted during the
7 immediately preceding 12-month period.

8 (b) The applicant has been continuously employed by the
9 staffing agency or a covered facility, adult foster care facility,
10 or mental health facility since the criminal history check was
11 conducted in compliance with this section or meets the continuous
12 employment requirement of this subdivision other than being on
13 layoff status for less than 1 year from a covered facility, adult
14 foster care facility, or mental health facility.

15 (c) The applicant can provide evidence acceptable to the
16 relevant licensing or regulatory department that he or she has been
17 a resident of this state for the immediately preceding 12-month
18 period.

19 (11) As a condition of continued employment, each employee,
20 independent contractor, or individual granted clinical privileges
21 shall do each of the following:

22 (a) Agree in writing to report to the staffing agency or
23 covered facility immediately upon being arraigned for 1 or more of
24 the criminal offenses listed in subsection (1)(a) to (g), upon
25 being convicted of 1 or more of the criminal offenses listed in
26 subsection (1)(a) to (g), upon becoming the subject of an order or
27 disposition described under subsection (1)(h), and upon being the
28 subject of a substantiated finding of neglect, abuse, or
29 misappropriation of property as described in subsection (1)(i).



1 Reporting of an arraignment under this subdivision is not cause for
2 termination or denial of employment.

3 (b) If a set of fingerprints is not already on file with the
4 department of state police, provide the department of state police
5 with a set of fingerprints.

6 (12) In addition to sanctions set forth in section 20165, a
7 licensee, owner, administrator, or operator of a staffing agency or
8 covered facility who knowingly and willfully fails to conduct the
9 criminal history checks as required under this section is guilty of
10 a misdemeanor punishable by imprisonment for not more than 1 year
11 or a fine of not more than \$5,000.00, or both.

12 (13) The department of state police and the Federal Bureau of
13 Investigation shall store and retain all fingerprints submitted
14 under this section and provide for an automatic notification if and
15 when subsequent criminal information submitted into the system
16 matches a set of fingerprints previously submitted under this
17 section. ~~Upon~~ **On** such notification, the department of state police
18 shall immediately notify the department and the department shall
19 immediately contact each respective staffing agency or covered
20 facility with which that individual is associated. Information in
21 the database established under this subsection is confidential, is
22 not subject to disclosure under the freedom of information act,
23 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to
24 any person except for purposes of this act or for law enforcement
25 purposes.

26 (14) The department shall maintain an electronic web-based
27 system to assist staffing agencies and covered facilities required
28 to check relevant registries and conduct criminal history checks of
29 its employees, independent contractors, and individuals granted



1 privileges and to provide for an automated notice to those staffing
 2 agencies and covered facilities for those individuals inputted in
 3 the system who, since the initial criminal history check, have been
 4 convicted of a disqualifying offense or have been the subject of a
 5 substantiated finding of abuse, neglect, or misappropriation of
 6 property. The department may charge a staffing agency a 1-time set-
 7 up fee of up to \$100.00 for access to the electronic web-based
 8 system under this section.

9 **(15) This section is subject to section 20173c.**

10 **(16)** ~~(15)~~ As used in this section:

11 (a) "Adult foster care facility" means an adult foster care
 12 facility licensed under the adult foster care facility licensing
 13 act, 1979 PA 218, MCL 400.701 to 400.737.

14 (b) "Convicted" means either of the following:

15 (i) For a crime that is not a relevant crime, a final
 16 conviction, the payment of a fine, a plea of guilty or nolo
 17 contendere if accepted by the court, or a finding of guilt for a
 18 criminal law violation or a juvenile adjudication or disposition by
 19 the juvenile division of probate court or family division of
 20 circuit court for a violation that if committed by an adult would
 21 be a crime.

22 (ii) For a relevant crime described under 42 USC 1320a-7(a),
 23 convicted means that term as defined in 42 USC 1320a-7.

24 (c) "Covered facility" means a health facility or agency that
 25 is a nursing home, county medical care facility, hospice, hospital
 26 that provides swing bed services, home for the aged, or home health
 27 agency.

28 (d) "Criminal history check conducted in compliance with this
 29 section" includes a criminal history check conducted under this



1 section, under section 134a of the mental health code, 1974 PA 258,
2 MCL 330.1134a, or under section 34b of the adult foster care
3 facility licensing act, 1979 PA 218, MCL 400.734b.

4 (e) "Direct access" means access to a patient or resident or
5 to a patient's or resident's property, financial information,
6 medical records, treatment information, or any other identifying
7 information.

8 (f) "Home health agency" means a person certified by Medicare
9 whose business is to provide to individuals in their places of
10 residence other than in a hospital, nursing home, or county medical
11 care facility 1 or more of the following services: nursing
12 services, therapeutic services, social work services, homemaker
13 services, home health aide services, or other related services.

14 (g) "Independent contract" means a contract entered into by a
15 covered facility with an individual who provides the contracted
16 services independently or a contract entered into by a covered
17 facility with a staffing agency that complies with the requirements
18 of this section to provide the contracted services to the covered
19 facility on behalf of the staffing agency.

20 (h) "Medicare" means benefits under the federal Medicare
21 program established under title XVIII of the social security act,
22 42 USC 1395 to 1395III.

23 (i) "Mental health facility" means a psychiatric facility or
24 other facility defined in 42 USC 1396d(d) as described under the
25 mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

26 (j) "Staffing agency" means an entity that recruits candidates
27 and provides temporary and permanent qualified staffing for covered
28 facilities, including independent contractors.

29 (k) "Under the facility's control" means an individual



1 employed by or under independent contract with a covered facility
2 for whom the covered facility does both of the following:

3 (i) Determines whether the individual who has access to
4 patients or residents may provide care, treatment, or other similar
5 support service functions to patients or residents served by the
6 covered facility.

7 (ii) Directs or oversees 1 or more of the following:

8 (A) The policy or procedures the individual must follow in
9 performing his or her duties.

10 (B) The tasks performed by the individual.

11 (C) The individual's work schedule.

12 (D) The supervision or evaluation of the individual's work or
13 job performance, including imposing discipline or granting
14 performance awards.

15 (E) The compensation the individual receives for performing
16 his or her duties.

17 (F) The conditions under which the individual performs his or
18 her duties.

19 **Sec. 20173c. (1) Notwithstanding any provision of section**
20 **20173a to the contrary, the department may temporarily suspend any**
21 **law or regulation to the extent that it requires fingerprinting of**
22 **individuals for employment with, independently contracting with, or**
23 **granting clinical privileges to a covered facility.**

24 (2) As used in this section, "covered facility" means that
25 term as defined in section 20173a.

26 (3) This section does not apply beginning July 1, 2021.

27 Sec. 21564. (1) ~~Upon~~ **Subject to section 21564a, on** request of
28 a hospital with less than 100 beds located in a nonurbanized area,
29 the department may waive the applicability of a specified licensure



1 requirement if the department determines that strict compliance
 2 with the licensure requirement is not necessary to protect the
 3 public health, safety, and welfare in light of the health care
 4 provided by or in the hospital. The department may impose
 5 conditions ~~upon~~**on** a waiver under this section to protect the
 6 public health, safety, and welfare.

7 (2) An application for a waiver under this section ~~shall~~**must**
 8 be on a form provided by the department.

9 (3) A waiver granted by the department under this section
 10 ~~shall~~**must** not exceed 2 years, except that the department may renew
 11 the waiver for subsequent periods if the hospital continues to meet
 12 the requirements of this section.

13 (4) As used in this section, "nonurbanized area" means that
 14 term as defined in section 21551.

15 **Sec. 21564a. (1) Notwithstanding any provision of this part to**
 16 **the contrary, the department may grant a waiver under section 21564**
 17 **to any hospital in this state, regardless of number of beds or**
 18 **location, for the purpose of providing care during the COVID-19**
 19 **pandemic, to construct, acquire, or operate a temporary or mobile**
 20 **facility for any health care purpose, regardless of where the**
 21 **facility is located. A waiver issued under this section may be**
 22 **renewed by the department through June 30, 2021.**

23 (2) As used in this section, "COVID-19" means coronavirus
 24 disease 2019 (COVID-19).

25 (3) This section does not apply beginning July 1, 2021.

26 Sec. 21911. (1) ~~The~~**Subject to section 21914, the** department
 27 may grant registration as a nurse aide to an applicant who meets
 28 all of the following requirements:

29 (a) Submits an application on a form and in a manner



1 prescribed by the department.

2 (b) Pays the fee prescribed in section 21919.

3 (c) Demonstrates to the department that he or she has
4 successfully completed a nurse aide training program and a
5 competency examination approved by the department.

6 (d) Meets the requirements for registration in rules
7 promulgated under section 21923.

8 (2) The department may grant a permit as a nurse aide trainer
9 to an applicant who meets all of the following requirements:

10 (a) Submits an application on a form and in a manner
11 prescribed by the department.

12 (b) Pays the fee prescribed in section 21919.

13 (c) Is a registered professional nurse licensed under article
14 15 who meets the requirements of 42 CFR 483.152(a)(5)(i) and (ii),
15 or who meets the requirements for a permit in rules promulgated
16 under section 21923.

17 (3) The department may grant a permit as a nurse aide training
18 program to an applicant that meets all of the following
19 requirements:

20 (a) Submits an application on a form and in a manner
21 prescribed by the department.

22 (b) Pays the fee prescribed in section 21919.

23 (c) Meets the requirements for a permit in rules promulgated
24 under section 21923.

25 (d) Demonstrates to the department that the applicant's
26 curriculum is consistent with other nurse aide training programs as
27 provided by rules promulgated by the department under this part.

28 (4) A registration or permit is not transferable. A
29 certificate of registration or certificate of permit must state the



1 persons to which it applies.

2 Sec. 21913. ~~The~~ **Subject to section 21914, the** department may
3 grant registration to an applicant who is from another state if the
4 applicant meets either of the following requirements:

5 (a) The applicant passes a training program that the
6 department determines is equivalent to or exceeds a nurse aide
7 training program offered in this state and the applicant passes a
8 competency examination approved by the department.

9 (b) The applicant's status as a nurse aide in the other state
10 is in good standing, as verified by that state's nurse aide
11 registry, and the department determines that the other state's
12 training program is equivalent to or exceeds a nurse aide training
13 program offered in this state.

14 **Sec. 21914. (1) Notwithstanding any provision of this part to**
15 **the contrary, the department may grant a temporary registration as**
16 **a certified nurse aide to an applicant, regardless of whether the**
17 **applicant demonstrates to the department that he or she has**
18 **successfully completed the examination requirements of section**
19 **21911 or 21913. A temporary registration granted under this section**
20 **is valid for 28 days and may be renewed by the department through**
21 **June 30, 2021.**

22 **(2) This section does not apply beginning July 1, 2021.**

