

ASSEMBLY, No. 4797

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Revises accreditation requirements for health care service firms that do not receive State funding; exempts from minimum wage requirements compensation paid to homemaker-home health aides.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health care service firms and homemaker-home
2 health aides and amending P.L.2002, c.126 and P.L.1967, c.89.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2002, c.126 (C.34:8-45.1) is amended to read
8 as follows:

9 1. a. Notwithstanding any other law or regulation to the
10 contrary, an employment agency required to be licensed pursuant to
11 P.L.1989, c.331 (C.34:8-43 et al.), or any other firm, company,
12 business, agency, or other entity that is not a home health care
13 agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or
14 a hospice licensed pursuant to P.L.1997, c.78 (C.26:2H-79 et seq.),
15 which **[employs,]** places **[,]** or arranges for the placement of **[,]** or
16 in any way refers, **[** an individual to provide companion services,
17 health care services, or personal care services in the personal
18 residence of a person with a disability or who is age 60 or older,
19 regardless of the title by which the provider of the services is
20 known, shall be registered as a **[Health Care Service Firm]** health
21 care service firm and shall be subject to the rules and regulations
22 governing **[Health Care Service Firms]** health care service firms
23 adopted by the Division of Consumer Affairs in the Department of
24 Law and Public Safety. **[The Division of Consumer Affairs is**
25 **authorized to enforce the health care service firm registration**
26 **requirement, and the provisions of P.L.1989, c.331 (C.34:8-43 et**
27 **al.), upon any person whose operations are subject to this section,**
28 **whether the operations include the direct employment of**
29 **individuals, the use of an Internet website or application, or any**
30 **other process or business model.]**

31 As used in this section:

32 "Companion services" means non-medical, basic supervision and
33 socialization services which do not include assistance with activities
34 of daily living, and which are provided in the individual's home.
35 Companion services may include the performance of household
36 chores.

37 "Health care services" means any services rendered for the
38 purpose of maintaining or restoring an individual's physical or
39 mental health or any health-related services, and for which a license
40 or certification is required as a pre-condition to the rendering of
41 such services.

42 "Personal care services" means services performed by licensed or
43 certified personnel for the purpose of assisting an individual with
44 activities of daily living that may involve physical contact.
45 Services include, but are not limited to, bathing, toileting,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 transferring, dressing, grooming, and assistance with ambulation,
2 exercise, or other aspects of personal hygiene.

3 b. (Deleted by amendment, P.L.2014, c.29)

4 c. (1) As a condition of being registered under P.L.1989, c.331
5 (C.34:8-43 et al.), a health care service firm shall obtain within 12
6 months of registration accreditation from an accrediting body that is
7 recognized by the Commissioner of Human Services as an
8 accrediting body for homemaker agencies participating in the
9 Medicaid program, as set forth at N.J.A.C.10:60-1.2. For purposes
10 of accreditation pursuant to this subsection, the accrediting body
11 shall apply the standards set forth in N.J.A.C.13:37-14.1 et seq. and
12 N.J.A.C.13:45B-13.1 et seq., as applicable.

13 (2) Notwithstanding paragraph (1) of this section, a health care
14 service firm that is not receiving State funding either through the
15 Medicaid program or through any other State subsidized program
16 shall not be required to receive accreditation from an accrediting
17 body that is recognized by the Commissioner of Human Services as
18 an accrediting body for homemaker agencies participating in the
19 Medicaid program as set forth at N.J.A.C.10:60-1.2. As a condition
20 of being registered under P.L.1989, c.331 (C.34:8-43 et al.), these
21 health care service firms shall be required to pay an annual
22 registration fee of no more than \$1,500 and shall be subject to
23 inspection requirements as established by the Division of Consumer
24 Affairs in the Department of Law and Public Safety.

25 d. As a condition of registration under P.L.1989, c.331 (C.34:8-
26 43 et al.), every health care service firm that is required to be
27 accredited pursuant to subsection c. of this section shall submit to
28 the director an audit the third calendar year after registration and
29 every third year thereafter. The audit shall be conducted by a
30 certified public accountant licensed by the State of New Jersey and
31 shall encompass an examination of the subject firm's financial
32 records, financial statements, the general management of its
33 operations, and its internal control systems. The audit shall include
34 an audit report with an unqualified opinion and shall be
35 accompanied by any management letters prepared by the auditor in
36 connection with the audit commenting on the internal controls or
37 management practices of the health care service firm. The audit
38 shall be divided into two components: compliance and financial.
39 The compliance component of the audit shall evaluate the firm's
40 compliance with relevant laws and regulations governing health
41 care service firms. The financial component shall include an audit
42 of the financial statements and accompanying notes, as specified in
43 the Statements on Auditing Standards issued by the American
44 Institute of Certified Public Accountants.

45 e. In addition to any other penalty provided by law, a person
46 shall be liable for a penalty of \$500 per day for each day that the
47 person continues to operate a firm without registering as required
48 under this section. The penalty shall be collected by the Director of

1 the Division of Consumer Affairs in a summary proceeding in
2 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
3 c.274 (C.2A:58-10 et seq.).
4 (cf: P.L.2019, c.48, s.1)

5
6 2. Section 1 of P.L.1967, c.89 (C.34:11-56a4.1) is amended to
7 read as follows:

8 1. a. The provisions of **the act to which this act is a**
9 **supplement in** P.L.1966, c.113 (C.34:11-56a et seq.) with respect
10 to minimum wages and compensation for overtime work shall not
11 be applicable during the months of June, July, August or September
12 of the year to summer camps, conferences and retreats operated by
13 any nonprofit or religious corporation or association.

14 b. The provisions of P.L.1966, c.113 (C.34:11-56a et seq.) with
15 respect to minimum wages and compensation for overtime work
16 shall not be applicable to wages and compensation paid to
17 homemaker-home health aides as that term is defined in section 1 of
18 P.L.1947, c.262 (C.45:11-23).
19 (cf: P.L.1968, c.58, s.1)

20
21 3. This act shall take effect immediately.
22
23

24 STATEMENT

25
26 This bill provides that health care service firms that are not
27 receiving State funding either through the Medicaid program or
28 through any other State subsidized program are not required to
29 receive accreditation by an accrediting body for homemaker
30 agencies participating in the Medicaid program. Rather, these
31 health care service firms would be required to pay an annual fee, of
32 no more than \$1,500, and be subject to inspection requirements, as
33 established by the Division of Consumer Affairs in the Department
34 of Law and Public Safety. Additionally, this bill excludes health
35 care service firms that are not accredited from the State requirement
36 that the firm submit an audit to the Director of the Division of
37 Consumer Affairs every three years.

38 The bill revises the current law to remove the registration
39 requirement for any health care service firm that employs or in any
40 way refers an individual to provide companion services, health care
41 services, or personal care services in the personal residence of a
42 person with a disability or who is age 60 or older.

43 It is the sponsor's intent to relieve those health care service firms
44 that do not receive State funding of burdensome audit requirements
45 under current law.

46 In addition, this bill exempts homemaker-home health aides from
47 the requirement that they, as employees, be paid the minimum wage
48 and overtime compensation under the "New Jersey State Wage and

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1 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.). Homemaker-
2 home health aides receive meals and shelter in the household for
3 which they provide services, which are considered a portion of their
4 compensation.