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LAW/KR

P.L.2014, CHAPTER 29, *approved August 1, 2014*
Senate, No. 667 (*Second Reprint*)

1 AN ACT concerning licensure of health care service firms and
2 amending ¹and supplementing¹ P.L.2002, c.126.

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
8 read 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 **【seq.】** al.), or any other firm,
12 company, business, agency, or other entity that is not a home health
13 care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
14 seq.) or a hospice licensed pursuant to P.L.1997, c.78 (C.26:2H-79
15 et seq.), which places or arranges for the placement of personnel to
16 provide companion services, health care, or personal care services
17 in the personal residence of a person with a disability or a senior
18 citizen age 60 or older, regardless of the title by which the provider
19 of the **【health care or personal care】** services is known, shall be
20 **【considered】** ²**【licensed】** registered² as a Health Care Service Firm
21 pursuant to ¹**【N.J.A.C.13:45B-14.1】** N.J.A.C.13:45B-13.1¹ et seq.
22 and shall be subject to the rules and regulations governing Health
23 Care Service Firms adopted by the Division of Consumer Affairs in
24 the Department of Law and Public Safety.

25 As used in this **【subsection】** section:

26 “Companion services” means non-medical, basic supervision and
27 socialization services which do not include ²**【direct physical contact**
28 with the individual】 assistance with activities of daily living², ¹and
29 which are¹ provided in the individual’s home. Companion services
30 may include the performance of household chores.

31 “Health care services” means any services rendered for the
32 purpose of maintaining or restoring an individual's physical or
33 mental health or any **【health related】** health-related services, and
34 for which a license or certification is required as a pre-condition to
35 the rendering of such services**【;】** .

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted June 5, 2014.

²Senate SBA committee amendments adopted June 23, 2014.

1 “Personal care services” **[shall]** means services performed by
2 licensed or certified personnel for the purpose of assisting an
3 individual with activities of daily living that may involve physical
4 contact. Services include, but are not **[be]** limited to, bathing,
5 toileting, transferring, dressing, grooming, and assistance with
6 ambulation, exercise, or other aspects of personal hygiene.

7 b. **[An agency or other entity which places or arranges for the**
8 **placement of personnel in the personal residence of a person with a**
9 **disability or a senior citizen age 60 years or older for the exclusive**
10 **purpose of providing companion, housekeeping, meal preparation,**
11 **shopping, laundry, cleaning, or transportation services shall not be**
12 **considered a Health Care Service Firm pursuant to this act.]**
13 (Deleted by amendment, P.L. , c.) (pending before the
14 Legislature as this bill)

15 c. As a condition of being ²**[licensed]** registered² under
16 P.L.1989, c.331 (C.34:8-43 et al.), a health care service firm shall
17 obtain within 12 months of ²**[licensure]** registration² accreditation
18 from an accrediting body that is recognized by the ²**[Director of the**
19 **Division of Consumer Affairs]** Commissioner of Human Services
20 as an accrediting body for homemaker agencies participating in the
21 Medicaid program, as set forth at N.J.A.C.10:60-1.2². For purposes
22 of accreditation pursuant to this subsection, the accrediting body
23 shall apply the standards set forth in N.J.A.C.13:37-14.1 et seq. and
24 N.J.A.C.13:45B-13.1 et seq., as applicable.

25 d. As a condition of ²**[licensure]** registration² under P.L.1989,
26 c.331 (C.34:8-43 et al.), ²**[a]** every² health care service firm ²**[¹that**
27 **receives government funds for any services provided¹]² shall**
28 **²**[cause to be prepared]** submit to the director² an ¹**[annual]¹ audit****
29 **¹the third calendar year after ²**[licensure]** registration² and every**
30 **third year thereafter¹. The audit shall be conducted by a**
31 **²**[qualified]² certified public accountant ²licensed by the State of****
32 **New Jersey² and shall encompass an examination of the subject**
33 **firm’s financial records, financial statements, the general**
34 **management of its operations, and its internal control systems.**
35 **²The audit shall include an audit report with an unqualified opinion**
36 **and shall be accompanied by any management letters prepared by**
37 **the auditor in connection with the audit commenting on the internal**
38 **controls or management practices of the health care service firm.²**
39 **The audit shall be divided into two components: compliance and**
40 **financial. The compliance component of the audit shall evaluate the**
41 **firm’s compliance with relevant laws and regulations governing**
42 **health care service firms. The financial component shall include an**
43 **audit of the financial statements and accompanying notes, as**
44 **specified in the Statements on Auditing Standards issued by the**
45 **American Institute of Certified Public Accountants. ²**[If the subject****
46 **firm is a recipient of State Medicaid funds and is therefore required**

1 to submit an annual cost report, that cost report shall be included in
2 the audit, and the auditor shall include an opinion on the accuracy
3 of the cost report.】²

4 (cf: P.L.2002, c.126, s.1)

5
6 2. (New section) The Director of the Division of Consumer
7 Affairs in the Department of Law and Public Safety shall enter into
8 a memorandum of understanding with an accrediting body ²chosen
9 by the director through appropriate procurement processes²
10 authorized to accredit a health care service firm pursuant to
11 subsection c. of section 1 of P.L.2002, c.126 (C.34:8-45.1). The
12 memorandum of understanding shall establish the standards for
13 accreditation and for reporting the results of audits performed
14 pursuant to subsection d. of section 1 of P.L.2002, c.126 to the
15 Division.

16
17 ¹3. (New Section) No more than three years after the enactment
18 of P.L. , c. (pending before the Legislature as this bill), the
19 Director of the Division of Consumer Affairs shall submit a written
20 report to the Governor and to the Legislature pursuant to section 2
21 of P.L.1991, c.164 (C.52:14-19.1), providing a comprehensive
22 review and analysis on the effectiveness of the licensure,
23 accreditation, and audit provisions of P.L. , c. (pending before
24 the Legislature as this bill) ²and recommendations for any
25 additional resources necessary to make such provisions more
26 effective².¹

27
28 ¹**[3.]** ^{4.}¹ The Director of the Division of Consumer Affairs in
29 the Department of Law and Public Safety, pursuant to the
30 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
31 seq.), shall adopt rules and regulations necessary to effectuate the
32 purposes of this act.

33
34 ¹**[4.]** ^{5.}¹ This act shall take effect on the first day of the
35 eighteenth month next following the date of enactment, but the
36 Director of the Division of Consumer Affairs may take such
37 anticipatory administrative action in advance thereof as shall be
38 necessary for the implementation of this act.

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43 Expands definition and licensure requirements for health care
44 service firms.

SENATE, No. 667

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Expands definition and licensure requirements for health care service firms.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning licensure of health care service firms and
2 amending P.L.2002, c.126.

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
8 read 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 **【seq.】** al.), or any other firm,
12 company, business, agency, or other entity that is not a home health
13 care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
14 seq.) or a hospice licensed pursuant to P.L.1997, c.78 (C.26:2H-79
15 et seq.), which places or arranges for the placement of personnel to
16 provide companion services, health care, or personal care services
17 in the personal residence of a person with a disability or a senior
18 citizen age 60 or older, regardless of the title by which the provider
19 of the **【health care or personal care】** services is known, shall be
20 **【considered】** licensed as a Health Care Service Firm pursuant to
21 N.J.A.C.13:45B-14.1 et seq. and shall be subject to the rules and
22 regulations governing Health Care Service Firms adopted by the
23 Division of Consumer Affairs in the Department of Law and Public
24 Safety.

25 As used in this **【subsection】** section:

26 “Companion services” means non-medical, basic supervision and
27 socialization services which do not include direct physical contact
28 with the individual, provided in the individual’s home. Companion
29 services may include the performance of household chores.

30 “Health care services” means any services rendered for the
31 purpose of maintaining or restoring an individual's physical or
32 mental health or any **【health related】** health-related services, and
33 for which a license or certification is required as a pre-condition to
34 the rendering of such services**【;】** .

35 “Personal care services” **【shall】** means services performed by
36 licensed or certified personnel for the purpose of assisting an
37 individual with activities of daily living that may involve physical
38 contact. Services include, but are not **【be】** limited to, bathing,
39 toileting, transferring, dressing, grooming, and assistance with
40 ambulation, exercise, or other aspects of personal hygiene.

41 b. **【An agency or other entity which places or arranges for the**
42 **placement of personnel in the personal residence of a person with a**
43 **disability or a senior citizen age 60 years or older for the exclusive**
44 **purpose of providing companion, housekeeping, meal preparation,**

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 shopping, laundry, cleaning, or transportation services shall not be
2 considered a Health Care Service Firm pursuant to this act.】
3 (Deleted by amendment, P.L. _____, c. _____) (pending before the
4 Legislature as this bill)

5 c. As a condition of being licensed under P.L.1989, c.331
6 (C.34:8-43 et al.), a health care service firm shall obtain within 12
7 months of licensure accreditation from an accrediting body that is
8 recognized by the Director of the Division of Consumer Affairs.
9 For purposes of accreditation pursuant to this subsection, the
10 accrediting body shall apply the standards set forth in
11 N.J.A.C.13:37-14.1 et seq. and N.J.A.C.13:45B-13.1 et seq., as
12 applicable.

13 d. As a condition of licensure under P.L.1989, c.331 (C.34:8-
14 43 et al.), a health care service firm shall cause to be prepared an
15 annual audit. The audit shall be conducted by a qualified certified
16 public accountant and shall encompass an examination of the
17 subject firm's financial records, financial statements, the general
18 management of its operations, and its internal control systems. The
19 audit shall be divided into two components: compliance and
20 financial. The compliance component of the audit shall evaluate the
21 firm's compliance with relevant laws and regulations governing
22 health care service firms. The financial component shall include an
23 audit of the financial statements and accompanying notes, as
24 specified in the Statements on Auditing Standards issued by the
25 American Institute of Certified Public Accountants. If the subject
26 firm is a recipient of State Medicaid funds and is therefore required
27 to submit an annual cost report, that cost report shall be included in
28 the audit, and the auditor shall include an opinion on the accuracy
29 of the cost report.

30 (cf: P.L.2002, c.126, s.1)

31

32 2. The Director of the Division of Consumer Affairs in the
33 Department of Law and Public Safety shall enter into a
34 memorandum of understanding with an accrediting body authorized
35 to accredit a health care service firm pursuant to subsection c. of
36 section 1 of P.L.2002, c.126 (C.34:8-45.1). The memorandum of
37 understanding shall establish the standards for accreditation and for
38 reporting the results of audits performed pursuant to subsection d.
39 of section 1 of P.L.2002, c.126 to the Division.

40

41 3. The Director of the Division of Consumer Affairs in the
42 Department of Law and Public Safety, pursuant to the
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.), shall adopt rules and regulations necessary to effectuate the
45 purposes of this act.

1 4. This act shall take effect on the first day of the eighteenth
2 month next following the date of enactment, but the Director of the
3 Division of Consumer Affairs may take such anticipatory
4 administrative action in advance thereof as shall be necessary for
5 the implementation of this act.

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STATEMENT

10 This bill concerns the provision of home health services by
11 health care service firms, which are regulated by the Division of
12 Consumer Affairs (DCA) in the Department of Law and Public
13 Safety.

14 This bill expands the definition of health care service firms to
15 include firms that place or arrange for the placement of personnel to
16 provide companion services (the current definition only includes
17 firms that place or arrange for the placement of personnel to provide
18 health care or personal care services). The bill further requires that
19 health care services firms obtain accreditation and comply with
20 annual auditing requirements.

21 The bill defines “companion services” to mean non-medical
22 basic supervision and socialization services which do not include
23 direct physical contact with the individual, and which are provided
24 in the individual’s home. The bill defines “personal care services”
25 to mean services performed by licensed or certified personnel for
26 the purpose of assisting an individual with activities of daily living
27 that may involve physical contact, and would include such services
28 as bathing, toileting, transferring, dressing, grooming, and
29 assistance with ambulation, exercise, or other aspects of personal
30 hygiene.

31 The bill requires that a health care service firm obtain within 12
32 months of licensure, accreditation from an accrediting body that is
33 recognized by the Director of DCA. The Director of DCA is to
34 enter into a memorandum of understanding with the accrediting
35 body regarding the required standards for accreditation.

36 As a condition of licensure, a health care service firm is to cause
37 to be prepared an annual audit. The audit is to be conducted by a
38 qualified certified public accountant and include an examination of
39 the subject firm’s financial records, financial statements, the
40 general management of its operations, and its internal control
41 systems. The audit is to be divided into legal compliance and
42 financial components, and the financial component is to be done in
43 accordance with the Statements on Auditing Standards issued by the
44 American Institute of Certified Public Accountants. A firm that
45 receives State Medicaid funds is also required to submit an annual
46 cost report with its audit, and an opinion from the auditor on the
47 accuracy of the cost report. The Director of DCA is to enter into a

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5

1 memorandum of understanding with an accrediting body for
2 purposes of accrediting health care service firms, and the
3 memorandum of understanding is to establish the standards for
4 accreditation and audit reporting requirements.

5 The bill would take effect on the first day of the eighteenth
6 month next following the date of enactment. The Director of DCA
7 is authorized to take such anticipatory administrative action as is
8 necessary for the implementation of the bill.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 667

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 667.

As amended by the committee, this bill concerns the provision of home health services by health care service firms, which are regulated by the Division of Consumer Affairs in the Department of Law and Public Safety.

This bill expands the definition of health care service firms to include firms that place or arrange for the placement of personnel to provide companion services. (The current definition only includes firms that place or arrange for the placement of personnel to provide health care or personal care services.) The bill further requires that health care services firms obtain accreditation and comply with auditing requirements.

The bill defines “companion services” to mean non-medical basic supervision and socialization services which do not include direct physical contact with the individual, and which are provided in the individual’s home. The bill defines “personal care services” to mean services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact, and would include such services as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

The bill requires that a health care service firm obtain, within 12 months of licensure, accreditation from an accrediting body that is recognized by the Director of the Division of Consumer Affairs.

The bill would also require that, as a condition of licensure, a health care service firm must cause to be prepared an audit every three years. The audit must be conducted by a qualified certified public accountant and include an examination of the subject firm’s financial records, financial statements, the general management of its operations, and its internal control systems. The audit must be divided into legal compliance and financial components, and the financial

component must be done in accordance with the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants. A firm that receives State Medicaid funds is also required to submit an annual cost report with its audit, and an opinion from the auditor on the accuracy of the cost report.

The Director of the Division of Consumer Affairs is to enter into a memorandum of understanding with an accrediting body for purposes of accrediting health care service firms, and the memorandum of understanding is to establish the standards for accreditation and audit reporting requirements.

The bill also requires that, no more than three years after the enactment of the bill, the Director of the Division of Consumer Affairs must report to the Governor and the Legislature, providing a comprehensive review and analysis on the effectiveness of the licensure, accreditation, and audit provisions of the bill.

The bill would take effect on the first day of the eighteenth month next following the date of enactment. The Director of DCA is authorized to take such anticipatory administrative action as is necessary for the implementation of the bill.

The committee amended the bill to change the auditing requirement from an annual audit to an audit every three years, and to apply the requirement only to health care service firms that receive government funds for services provided. The committee amendments also add the requirement that the Director of the Division of Consumer Affairs report to the Governor and the Legislature on the bill's implementation. The committee amendments also include technical corrections.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported and amended by the committee, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 667

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 667 (1R), with committee amendments.

As amended, this bill concerns the provision of home health services by health care service firms, which are regulated by the Division of Consumer Affairs in the Department of Law and Public Safety.

This bill expands the definition of health care service firms to include firms that place or arrange for the placement of personnel to provide companion services. The current definition only includes firms that place or arrange for the placement of personnel to provide health care or personal care services. The bill further requires that health care services firms obtain accreditation and comply with auditing requirements.

The bill defines “companion services” to mean non-medical basic supervision and socialization services which do not include assistance with activities of daily living, and which are provided in the individual’s home. The bill defines “personal care services” to mean services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact, and would include such services as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

The bill requires that a health care service firm obtain, within 12 months of licensure, accreditation from an accrediting body that is recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program.

The bill would also require that, as a condition of licensure, a health care service firm must cause to be prepared an audit every three years. The audit must be conducted by a certified public accountant licensed in the State of New Jersey and must include an examination of the subject firm’s financial records, financial statements, the general management of its operations, and its internal control systems. The audit must include an audit report with an unqualified opinion and

shall be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm. The audit must be divided into legal compliance and financial components, and the financial component must be done in accordance with the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants.

The Director of the Division of Consumer Affairs is to enter into a memorandum of understanding with an accrediting body chosen through appropriate procurement processes for purposes of accrediting health care service firms, and the memorandum of understanding is to establish the standards for accreditation and audit reporting requirements.

The bill also requires that, no more than three years after the enactment of the bill, the Director of the Division of Consumer Affairs must report to the Governor and the Legislature, providing a comprehensive review and analysis on the effectiveness of the licensure, accreditation, and audit provisions of the bill.

The bill would take effect on the first day of the eighteenth month next following the date of enactment. The Director of the Division of Consumer Affairs is authorized to take such anticipatory administrative action as is necessary for the implementation of the bill.

FISCAL IMPACT

The bill would increase costs at the Division of Consumer Affairs in order to hire additional staff needed to provide State oversight of firms that would be required to be registered as health care service firms. These costs would likely be offset by revenue from fees charged to firms applying for registration, currently \$500 per primary location per year. The Office of Legislative Services (OLS) is unable to estimate the total increase in costs and revenues, as the OLS does not have information on how many firms will need to be registered under the bill.

According to the Division of Consumer Affairs, there are currently 998 registered health care service firms in New Jersey (including multiple sites operated by a single entity). The number of hospices and employment and personnel firms that currently provide services that would require registration as a health care service firm under the bill is unknown. It is also possible that some firms may opt to discontinue providing certain services in order to avoid the registration requirement.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- Require that applicable firms be registered, rather than licensed, as health care service firms;

- Change the definition of “companion services” so that companion services is defined to exclude assistance with activities of daily living, but allows direct physical contact;
- Require that the accrediting body for health care service firms be recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program, rather than by the Director of the Division of Consumer Affairs;
- Require that the certified public accountant who conducts an audit of a health care service firm be licensed by the State;
- Require that the certified public accountant’s audit include an audit report with an unqualified opinion, and be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm;
- Delete a provision that would have required a Medicaid cost report to be included in the audit;
- Clarify that the accrediting body must be chosen through appropriate procurement processes; and
- Require that the report to the Governor and the Legislature by the Director of the Division of Consumer affairs also include any recommendations for any additional resources necessary to make the provisions of the bill more effective.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 667

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 30, 2014

SUMMARY

- Synopsis:** Expands definition and licensure requirements for health care service firms.
- Type of Impact:** An expenditure increase, offset by a revenue increase.
- Agencies Affected:** Division of Consumer Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Years 1-3</u> |
|----------------------|------------------------------------|
| State Cost | Indeterminate – See comments below |
| State Revenue | Indeterminate – See comments below |

- The bill would increase the number of firms that would be required to register as health care service firms, leading to an increase in State costs related to the oversight of these firms, and an increase in revenues from registration fees.
- The bill's accreditation and auditing requirements would have minimal fiscal impact on the State, as costs could be imposed on health care service firms. If the expanded requirements cause some firms not to renew their registrations as health care service firms, State costs and revenues related to these firms may decrease.

BILL DESCRIPTION

Senate Bill No. 667 (2R) of 2014 expands the definition of health care service firms, which are regulated by the Division of Consumer Affairs (division) in the Department of Law and Public Safety, to include firms that place or arrange for the placement of personnel to provide companion services. The current definition only includes firms that place or arrange for the placement of personnel to provide health care or personal care services. The bill further requires that health care service firms obtain accreditation and comply with auditing requirements.

The bill defines “companion services” to mean non-medical basic supervision and socialization services which do not include assistance with activities of daily living, and which are provided in the individual’s home. The bill also clarifies the definition of “personal care services” as services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact, and would include such services as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

The bill requires that a health care service firm obtain, within 12 months of licensure, accreditation from an accrediting body that is recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program.

The bill would also require that, as a condition of licensure, a health care service firm must cause to be prepared an audit every three years. The audit must be conducted by a certified public accountant licensed in the State of New Jersey and must include an examination of the subject firm’s financial records, financial statements, the general management of its operations, and its internal control systems. The audit must include an audit report with an unqualified opinion and shall be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm. The audit must be divided into legal compliance and financial components, and the financial component must be done in accordance with the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants.

The Director of the Division of Consumer Affairs is to enter into a memorandum of understanding with an accrediting body chosen through appropriate procurement processes for purposes of accrediting health care service firms, and the memorandum of understanding is to establish the standards for accreditation and audit reporting requirements.

The bill also requires that, no more than three years after the enactment of the bill, the Director of the Division of Consumer Affairs must report to the Governor and the Legislature, providing a comprehensive review and analysis on the effectiveness of the licensure, accreditation, and audit provisions of the bill, and recommendations for any additional resources necessary to such provisions more effective.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concludes that, by expanding the definition of health care service firms to include firms providing companion services, the bill would likely increase the number of firms that would be required to register as health care service firms, leading to an increase in State costs at the division related to the oversight of these firms. These costs would be offset by revenue from registration fees, currently \$500 per primary location per year. According to the division website, there are currently 998 registered health care service firms in New Jersey (counting multiple sites operated by a single entity as multiple firms). The OLS does not have information on how many firms that are not currently health care service firms but are currently providing companion services that, under the bill, would require them to

register as health care service firms. The OLS notes that the bill's definition of a health care service firm may be interpreted to include firms whose employees perform only household chores for applicable individuals, which could be interpreted to include a large number of firms that provide cleaning and other household services. It is uncertain to what extent these firms would be classified as health care service firms by the division, and therefore subject to registration under this bill. It is also noted that some firms may opt to discontinue providing companion services to applicable individuals in order to avoid the registration requirement and the associated oversight and costs.

The bill's expansion of accreditation and auditing requirements for health care service firms may also slightly increase the cost to oversee these firms, as the division will be required to enter into a memorandum of understanding with an accrediting body and verify that firms are in compliance with these requirements. These costs may be imposed on health care service firms, through fees charged by the accreditation agency or increased registration fees charged by the State. It is noted that increasing the cost to remain registered as a health care service firm (through increased fees or the cost of regulatory compliance) may cause some firms to choose not to renew their registrations, reducing costs related to the oversight of these firms and revenues from their registration fees.

Because of uncertainty regarding all of the factors described above, the OLS is not able to determine the net fiscal impact of the bill. However, it is noted that licensure and registration programs operated by the division generally set fees to approximate the costs incurred by the division to regulate the licensed and registered entities.

Section: Human Services
Analyst: David Drescher
Associate Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 2207

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 27, 2014

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman CARMELO G. GARCIA

District 33 (Hudson)

Co-Sponsored by:

Assemblyman Coughlin and Assemblywoman Spencer

SYNOPSIS

Expands definition and licensure requirements for health care service firms.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/24/2014)

1 AN ACT concerning licensure of health care service firms and
2 amending P.L.2002, c.126.

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
8 read 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 **[seq.] al.**), or any other firm,
12 company, business, agency, or other entity that is not a home health
13 care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
14 seq.), which places or arranges for the placement of personnel to
15 provide companion, health care, or personal care services in the
16 personal residence of a person with a disability or a senior citizen
17 age 60 or older, regardless of the title by which the provider of the
18 **[health care or personal care]** services is known, shall be
19 considered a Health Care Service Firm pursuant to N.J.A.C.13:45B-
20 14.1 et seq. and shall be subject to the rules and regulations
21 governing Health Care Service Firms adopted by the Division of
22 Consumer Affairs in the Department of Law and Public Safety.

23 As used in this **[subsection]** section:

24 "Companion services" means basic supervision and socialization
25 services.

26 "Health care services" means any services rendered for the
27 purpose of maintaining or restoring an individual's physical or
28 mental health or any **[health related]** health-related services, and
29 for which a license or certification is required as a pre-condition to
30 the rendering of such services**;** **;** .

31 "Personal care services" shall include, but not be limited to,
32 bathing, toileting, transferring, dressing, grooming, and assistance
33 with ambulation, exercise, or other aspects of personal hygiene.

34 b. An agency or other entity which places or arranges for the
35 placement of personnel in the personal residence of a person with a
36 disability or a senior citizen age 60 years or older for the exclusive
37 purpose of providing **[companion,]** housekeeping, meal
38 preparation, shopping, laundry, cleaning, or transportation services
39 shall not be considered a Health Care Service Firm pursuant to this
40 act.

41 c. As a condition of licensure under P.L.1989, c.331 (C.34:8-
42 43 et al.), a health care service firm shall obtain accreditation from
43 an accrediting body that is recognized by the Commissioner of
44 Human Services as an accrediting body for homemaker agencies

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 participating in the Medicaid program, as set forth at
2 N.J.A.C.10:60-1.2.

3 d. As a condition of licensure under P.L.1989, c.331 (C.34:8-
4 43 et al.), a health care service firm that receives government funds
5 for any services provided shall cause to be prepared an annual audit
6 of its financial transactions. The audit shall be conducted in
7 accordance with the federal "Single Audit Act of 1984", Pub.L.98-
8 502, as amended by the "Single Audit Act Amendments of 1996,"
9 Pub.L.104-156 (31 U.S.C. s.7501 et seq.), generally accepted
10 auditing standards as specified in the Statements on Auditing
11 Standards issued by the American Institute of Certified Public
12 Accountants, and Government Auditing Standards issued by the
13 Comptroller General of the United States.

14 (cf: P.L.2002, c.126, s.1)

15

16 2. The Director of the Division of Consumer Affairs in the
17 Department of Law and Public Safety, pursuant to the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
19 seq.), shall adopt rules and regulations necessary to effectuate the
20 purposes of this act.

21

22 3. This act shall take effect on the first day of the fourth month
23 next following the date of enactment.

24

25

26

STATEMENT

27

28 This bill concerns the provision of home health services by
29 health care service firms regulated by the Division of Consumer
30 Affairs (DCA) in the Department of Law and Public Safety.

31 The bill expands the definition of a health care service firm to
32 include firms that place or arrange for the placement of personnel to
33 provide companion services exclusively in the personal residence of
34 a person with a disability or senior citizen 60 years of age or over.
35 The definition in current law only includes firms that place or
36 arrange for the placement of personnel to provide health care or
37 personal care services.

38 The bill requires that health care service firms, as a condition of
39 licensure, obtain accreditation from an accrediting body that is
40 recognized by the Commissioner of Human Services as an
41 accrediting body for homemaker agencies participating in the
42 Medicaid program. As an additional condition of licensure, if a
43 health care service firm receives government funds for any services
44 provided, it must also cause to be performed an independent audit
45 of its financial transactions.

46 The bill provides for rulemaking by the Director of DCA, and
47 has a delayed effective date of the first day of the fourth month
48 following its enactment.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2207

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2014

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2207, with committee amendments.

As amended, this bill concerns the provision of home health services by health care service firms regulated by the Division of Consumer Affairs in the Department of Law and Public Safety.

The bill expands the definition of health care service firms to include firms that place or arrange for the placement of personnel to provide companion services. (The current definition only includes firms that place or arrange for the placement of personnel to provide health care or personal care services.) The bill also requires that health care service firms obtain accreditation and comply with certain auditing requirements.

The bill defines “companion services” to mean non-medical, basic supervision and socialization services which do not include direct physical contact with the individual, and which are provided in the individual’s home. The bill redefines “personal care services” to mean services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact, and include services such as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

The bill requires that a health care service firm obtain, within 12 months of licensure, accreditation from an accrediting body that is recognized by the Director of the Division of Consumer Affairs.

The bill requires that, as a condition of licensure, a health care service firm that receives government funds for any services provided must cause to be prepared an audit every three years. The audit must be conducted by a qualified certified public accountant and include an examination of the subject firm’s financial records, financial statements, the general management of its operations, and its internal control systems. The audit must be divided into legal compliance and financial components, and the financial component must be done in accordance with the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants. A firm that receives State Medicaid funds is also required to submit an annual cost

report with its audit, and an opinion from the auditor on the accuracy of the cost report.

The bill requires the Director of the Division of Consumer Affairs to enter into a memorandum of understanding with an accrediting body for purposes of accrediting health care service firms, and provides that the memorandum of understanding is to establish the standards for accreditation and audit reporting requirements.

The bill provides that, no more than three years after enactment of the bill, the Director of the Division of Consumer Affairs must report to the Governor and the Legislature, providing a comprehensive review and analysis on the effectiveness of the licensure, accreditation, and audit provisions of the bill.

The bill requires the Director of the Division of Consumer Affairs to adopt rules and regulations necessary to effectuate the purposes of the bill.

The bill takes effect on the first day of the 18th month next following the date of enactment, but permits the Director of the Division of Consumer Affairs to take anticipatory administrative actions in advance of the bill's effective date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill will increase costs at the Division of Consumer Affairs to hire additional staff needed to provide State oversight of firms required to be registered as health care service firms. These costs will likely be offset by revenue from fees charged to firms applying for registration, currently \$500 per primary location per year. The OLS is unable to estimate the total increase in costs and revenues because it does not have information on how many firms will need to be registered under the bill.

According to the Division of Consumer Affairs, there are currently 998 registered health care service firms in New Jersey (including multiple sites operated by a single entity). The number of firms that currently provide services that require registration as a health care service firm under the bill is unknown. It is also possible that some firms may opt to discontinue providing certain services to avoid the registration requirement.

COMMITTEE AMENDMENTS:

The amendments revise certain defined terms ("companion services" and "personal care services") under the bill.

The amendments require that as a condition of being licensed health care service firms must obtain accreditation from an accrediting body recognized by the Director of the Division of Consumer Affairs (as opposed to the Commissioner of Human Services as previously required by the bill) within 12 months of licensure.

The amendments require that as a condition of being licensed health care service firms, that receive government funds for any services provided, must cause an audit to be prepared by a qualified certified public accountant every three years (as opposed to being conducted annually in accordance with the federal “Single Audit Act of 1984” as previously required by the bill).

The amendments require the Director of the Division of Consumer Affairs to enter into a memorandum of understanding with an accrediting body for purposes of accrediting health care service firms.

The amendments require the Director of the Division of Consumer Affairs to submit a report to the Governor and the Legislature, providing a review and analysis of the licensure, accreditation, and audit provisions of the bill, no more than three years after enactment of the bill.

The amendments delay the effective date of the bill from the fourth month to the 18th month next following the date of enactment, and permit the Director of the Division of Consumer Affairs to take anticipatory administrative actions in advance of the bill’s effective date.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 2207

with Assembly Floor Amendments
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JUNE 23, 2014

These amendments make the following changes to the bill:

- Require that applicable firms be registered, rather than licensed, as health care service firms;
- Change the definition of “companion services” so that companion services is defined to exclude assistance with activities of daily living, but allows direct physical contact;
- Require that the accrediting body for health care service firms be recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program, rather than by the Director of the Division of Consumer Affairs;
- Require that the certified public accountant who conducts an audit of a health care service firm be licensed by the State;
- Require that the certified public accountant’s audit include an audit report with an unqualified opinion, and be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm;
- Delete a provision that would have required a Medicaid cost report to be included in the audit;
- Clarify that the accrediting body must be chosen through appropriate procurement processes; and
- Require that the report to the Governor and the Legislature by the Director of the Division of Consumer affairs also include any recommendations for any additional resources necessary to make the provisions of the bill more effective.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2207

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 30, 2014

SUMMARY

- Synopsis:** Expands definition and licensure requirements for health care service firms.
- Type of Impact:** An expenditure increase, offset by a revenue increase.
- Agencies Affected:** Division of Consumer Affairs in the Department of Law and Public Safety.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Years 1-3</u> |
|----------------------|------------------------------------|
| State Cost | Indeterminate – See comments below |
| State Revenue | Indeterminate – See comments below |

- The bill would increase the number of firms that would be required to register as health care service firms, leading to an increase in State costs related to the oversight of these firms, and an increase in revenues from registration fees.
- The bill's accreditation and auditing requirements would have minimal fiscal impact on the State, as costs could be imposed on health care service firms. If the expanded requirements cause some firms not to renew their registrations as health care service firms, State costs and revenues related to these firms may decrease.

BILL DESCRIPTION

Assembly Bill No. 2207 (2R) of 2014 expands the definition of health care service firms, which are regulated by the Division of Consumer Affairs (division) in the Department of Law and Public Safety, to include firms that place or arrange for the placement of personnel to provide companion services. The current definition only includes firms that place or arrange for the placement of personnel to provide health care or personal care services. The bill further

requires that health care service firms obtain accreditation and comply with auditing requirements.

The bill defines “companion services” to mean non-medical basic supervision and socialization services which do not include assistance with activities of daily living, and which are provided in the individual’s home. The bill also clarifies the definition of “personal care services” as services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact, and would include such services as bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

The bill requires that a health care service firm obtain, within 12 months of licensure, accreditation from an accrediting body that is recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program.

The bill would also require that, as a condition of licensure, a health care service firm must cause to be prepared an audit every three years. The audit must be conducted by a certified public accountant licensed in the State of New Jersey and must include an examination of the subject firm’s financial records, financial statements, the general management of its operations, and its internal control systems. The audit must include an audit report with an unqualified opinion and shall be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm. The audit must be divided into legal compliance and financial components, and the financial component must be done in accordance with the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants.

The Director of the Division of Consumer Affairs is to enter into a memorandum of understanding with an accrediting body chosen through appropriate procurement processes for purposes of accrediting health care service firms, and the memorandum of understanding is to establish the standards for accreditation and audit reporting requirements.

The bill also requires that, no more than three years after the enactment of the bill, the Director of the Division of Consumer Affairs must report to the Governor and the Legislature, providing a comprehensive review and analysis on the effectiveness of the licensure, accreditation, and audit provisions of the bill, and recommendations for any additional resources necessary to such provisions more effective.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concludes that, by expanding the definition of health care service firms to include firms providing companion services, the bill would likely increase the number of firms that would be required to register as health care service firms, leading to an increase in State costs at the division related to the oversight of these firms. These costs would be offset by revenue from registration fees, currently \$500 per primary location per year. According to the division website, there are currently 998 registered health care service firms in New Jersey (counting multiple sites operated by a single entity as multiple firms). The

OLS does not have information on how many firms that are not currently health care service firms but are currently providing companion services that, under the bill, would require them to register as health care service firms. The OLS notes that the bill's definition of a health care service firm may be interpreted to include firms whose employees perform only household chores for applicable individuals, which could be interpreted to include a large number of firms that provide cleaning and other household services. It is uncertain to what extent these firms would be classified as health care service firms by the division, and therefore subject to registration under this bill. It is also noted that some firms may opt to discontinue providing companion services to applicable individuals in order to avoid the registration requirement and the associated oversight and costs.

The bill's expansion of accreditation and auditing requirements for health care service firms may also slightly increase the cost to oversee these firms, as the division will be required to enter into a memorandum of understanding with an accrediting body and verify that firms are in compliance with these requirements. These costs may be imposed on health care service firms, through fees charged by the accreditation agency or increased registration fees charged by the State. It is noted that increasing the cost to remain registered as a health care service firm (through increased fees or the cost of regulatory compliance) may cause some firms to choose not to renew their registrations, reducing costs related to the oversight of these firms and revenues from their registration fees.

Because of uncertainty regarding all of the factors described above, the OLS is not able to determine the net fiscal impact of the bill. However, it is noted that licensure and registration programs operated by the division generally set fees to approximate the costs incurred by the division to regulate the licensed and registered entities.

Section: Human Services

*Analyst: David Drescher
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).