

HB 386-FN - AS INTRODUCED

2025 SESSION

25-0211

07/08

HOUSE BILL ***386-FN***

AN ACT prohibiting nursing agencies from including non-compete clauses in contracts with health care entities.

SPONSORS: Rep. Preece, Hills. 17; Rep. Cornell, Hills. 22; Rep. Grote, Rock. 24

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill prohibits nursing agencies from including non-compete clauses in contracts with health care entities.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~in brackets and struck through.~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT prohibiting nursing agencies from including non-compete clauses in contracts with health care entities.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Nurse Agency Registration; Definitions; Definitions Added. Amend RSA 326-M:1 to read as
2 follows:

3 326-M:1 Definitions.

4 I. "Nurse agency" means any individual, firm, corporation, partnership or other legal entity
5 that employs, assigns or refers nurses or licensed nursing assistants to a health care facility on a per
6 diem or temporary basis for a fee. The term "nurse agency" includes an agency that employs,
7 assigns, or refers such personnel through the use of apps or other technology based solutions or
8 platforms. The term "nurse agency" shall not include services provided ***in a household setting*** by
9 home health agencies licensed and operated under RSA 151:2-b, any entity wholly owned by a health
10 care facility or facilities separately licensed under RSA 151, nor shall it include any individual
11 offering only his or her services.

12 II. "Director" means the executive director of the office of professional licensure and
13 certification.

14 ***III. "Health care facility" means any facility or organization, regardless of its
15 primary purpose of business, that employs any nurses or licensed nursing assistants to care
16 for the population it serves.***

17 ***IV. "Nurse," "licensed nursing assistant" or "employee" means an individual
18 licensed by the board of nursing to practice in this state.***

19 2 Nurse Agency Registration; Contracts Between Nurse Agencies and Health Care Facilities.
20 Amend RSA 326-M:3 to read as follows:

21 326-M:3 Contracts Between Nurse Agencies and Health Care Facilities.

22 ***I. Nurse agencies shall not:***

23 [~~I. Nurse agencies shall not commit~~] ***(a) Commit*** the services of a single nurse or licensed
24 nursing assistant to more than one health care facility for the same time period or shift and cancel a
25 commitment to a facility, or compel that facility to bid again for services already promised it.

26 [~~II. Nurse agencies shall not recruit~~] ***(b) Recruit*** potential employees on the premises of a
27 health care facility.

28 [~~III. Nurse agencies may not charge~~] ***(c) Charge*** a health care facility a higher amount
29 based upon the presence in that facility of a communicable virus, except in the case of a state or local
30 declaration of a public health emergency.

1 ~~[IV. Nurse agencies may not facilitate]~~ **(d) Facilitate** the placement of any licensed
2 professional with a license that is suspended.

3 **(e) Restrict the employment opportunities of nurses or licensed nursing**
4 **assistants by including a non-compete clause or other restrictive covenant in any contract**
5 **with an employee or health care facility.**

6 **(f) In any contract with an employee or health care facility, require payment of**
7 **liquidated damages, employment fees, or other compensation if the employee is**
8 **subsequently hired as a permanent employee of the health care facility within any time**
9 **frame.**

10 **(1) This restriction shall not apply to a contract between a nursing agency**
11 **and an employee if the contract meets all of the following criteria:**

12 **(A) The contract was entered into for the sole purpose of placing an**
13 **employee, and the employment agency assisted in obtaining authorization to work in the**
14 **United States.**

15 **(B) The contract contains an initial duration term of not less than 24**
16 **months and a total duration term, including any renewals or extensions, of not more than**
17 **36 months.**

18 **(C) The contract requires the employee to work for a single health care**
19 **facility for the duration of the contract.**

20 **(2) Any contract that violates this subsection shall be unenforceable in any**
21 **court or proceeding with respect to said restriction; provided, however, that nothing herein**
22 **shall render void or unenforceable the remaining provision of any such contract or**
23 **agreement.**

24 **II. The requirements of this section shall void said restrictions in existing contracts**
25 **or agreements upon the effective date of this section and apply to new contracts or**
26 **renewals of contracts or agreements entered into or after the effective date of this section.**

27 3 Effective Date. This act shall take effect upon its passage.

**HB 386-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to prohibiting nursing agencies from including non-compete clauses in contracts with health care entities.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Revenue Fund(s)</i>	General Fund			
Expenditures*	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill prohibits nursing agencies from including non-compete clauses in contracts with health care entities. The bill provides that a contract that violates its provisions shall not be enforceable in any court proceeding. It is not possible to predict if there will be such contracts that violate the provisions of this bill or how many there may be. The Judicial Branch has provided the following average cost and fee information for routine and complex civil cases:

Judicial Branch Average Cost	FY 2025	FY 2026
Superior Court Complex Civil Case	\$1,430	\$1,473
Superior Court Routine Civil Case	\$535	\$552

Superior Court Fees	As of 2/12/2020
Original Entry Fee	\$280
Third-Party Claim	\$280
Motion to Reopen	\$160

It is assumed that any fiscal impact would occur after June 30, 2025.

AGENCIES CONTACTED:

Judicial Branch