

**Health Regulation & Licensing
Administration**

Sent via Email and US Mail

APR 10 2019**ALERT**

Dear Providers,

As you know, the Department of Health (DC Health), Health Regulation and Licensing Administration (HRLA), issues licenses for nurse staffing agencies operating in the District of Columbia in accordance with the Nurse Staffing Agency Act of 2002, as amended (D.C. Law 15-74; D.C. Official Code § 44-1051.01 *et seq.*). We have been asked a number of questions concerning what nurse staffing agencies can and cannot do under their licenses. In order to provide clarity, please read the following description of what a nurse staffing agency is authorized to do.

Under District law, a “*nurse staffing agency*” is defined as a “*person, firm, corporation, partnership or other business entity engaged in the business of **providing nursing personnel** (licensed Registered Nurses, Licensed Practical Nurses or Certified Nurse Aides certified in accordance with 29 DCMR § 3200) to a health care facility or agency, or to an individual, for the purpose of rendering temporary nursing personnel within the District of Columbia.*” D.C. Official Code § 44-1051.02(7). This means that a nurse staffing agency is essentially an employment agency providing nursing personnel to licensed health care facilities, or individuals who request such personnel. A nurse staffing agency is not in the business of providing direct services to individuals or patients, overseeing care or supervising the provisions of services to individuals according to a plan of care, or maintaining patient care records. It also cannot bill for anything other than the provision of nursing personnel to those who request such personnel.

There is a distinction required to address the level of nursing personnel whose scope of practice allows unsupervised, independent practice in the home setting. According to 29 DCMR § 3299, a Certified Nurse Aide (CNA) cannot render services to individuals except residents of a nursing facility or an assisted living residence. Therefore, a nurse staffing agency cannot deploy a CNA and/or a home health aide (HHA) to an individual in their home. Only licensed practical nurses (LPNs) or registered nurses (RNs) can be deployed by a nurse staffing agency to an individual in a home setting.

The law also says that a nurse staffing agency does not include:

- A program operated by a health care facility “solely for the purpose of procuring or furnishing temporary or permanent nursing personnel for employment at that health care facility;” or
- An entity operating as a home care agency. D.C. Official Code § 44-1051.02(7).

Unlike a nurse staffing agency, a licensed home care agency provides skilled and psychiatric nursing services, monitoring services, physical therapy, speech therapy, occupational therapy, intravenous therapy, medical social services, nutritional support services, social services and/or personal care (overseen by a licensed Registered Nurse or other health professional) “to an individual, in his or her home or in a community residence facility, who is sick or who has a disability.” D.C. Official Code § 44-501(7); 22-B DCMR § 3299. In other words, a home care agency provides care services, both skilled and unskilled, directly to individuals through plans of care, approved by each individual’s physician.

In summary, a nurse staffing agency is an employment agency, whereas a home care agency is a service agency.

Please note that failure to operate a nurse staffing agency in accordance with the District’s law and regulations governing such operations will subject you to suspension or revocation of your license.

If you have any questions or need further information, please contact Sharon Mebane, Program Manager, Intermediate Care Facilities Division at sharon.mebane@dc.gov or on 202-442-4751.