



Interpretive Notice & Formal Opinion (“INFO”) #21: Reporting Required by Supplemental Healthcare Staffing Agencies

Overview

Any supplemental healthcare staffing agency (“SHSA”) doing business in Colorado must report certain data to the Division of Labor Standards and Statistics (“Division”) twice a year under C.R.S. § 8-4-125, enacted into law by [Senate Bill 22-210](#) on June 3, 2022 (“SB210”).

The Basic Requirements: Staffing Agencies Reporting Their Wages, Charges and Other Information

- SHSAs must report twice a year — **October-March data by April 30, April-September data by October 31:**
 - (1) **Identification** information:
 - (a) agency’s **direct or indirect owners;**
 - (b) **individual submitting the report** to the Division; and
 - (c) if the agency is owned by a corporation, the **corporate bylaws and articles of incorporation.**
 - (2) **Wage and revenue** information — a detailed listing by quarter, for each category of healthcare worker providing services to a healthcare facility, of:
 - (a) average amounts **charged** to healthcare **facilities;** and
 - (b) average amounts **paid** to healthcare **workers.**
 - (3) **Compliance** information — **certification** by the SHSA that, throughout the reporting period, each healthcare worker contracted to a healthcare facility:
 - (a) had a **current, unrestricted license or certification in good standing;**
 - (b) met the **training and continuing education standards** for the position with the facility;
 - (c) passed all **background checks** required by any source of law for the position or the facility; and
 - (d) was covered by **professional liability insurance** maintained by the SHSA.

Ramifications for Failing to Provide Your Report¹

- If an agency fails to submit a report by the last calendar day of the Delinquency Grace Period (defined below), the \$500 delinquency fine will be assessed.
- Failure to report during the Non-Compliance Period (defined below) will result in a \$10,000 fine for the first incident of non-compliance. If an agency fails to submit a report more than once, it will be fined \$20,000.² After the end of the Non-Compliance Period, the Notice of Fine, which includes a total of all assessed fines, will be issued to an agency that did not meet reporting requirements pursuant to SB210.
- Non-compliance fines may be assessed without a delinquency fine if the agency submitted a report on time but did not satisfy all reporting requirements and did not respond to the Divisional inquiry.

Agencies & Workers Covered

- **Supplemental Healthcare Staffing Agencies:** Any entity that, for a fee, provides healthcare workers to healthcare facilities for temporary placements — but not healthcare worker platforms or individual independent contractors providing their **own** services.
- **Healthcare Worker Platform:** Any entity that maintains a system or technology that provides a platform for healthcare workers to be listed and made available for hire to healthcare facilities seeking placement. Under a platform, healthcare facilities set the hourly rates and terms of hire, and healthcare workers can act as independent contractors, to decide whether to agree to the terms of hire and the hourly rates.

¹ In addition to these mandatory reports that SB210 requires, other certifications, registrations, or licenses may or may not be required of an SHSA by other laws the Division of Labor Standards and Statistics does not administer. For example, Colorado law on unemployment insurance requires certification by an “employee leasing company” (C.R.S. 8-70-114) — but not by a “temporary help contracting firm,” which is defined as a firm “employing individuals and, for compensation from a third party, providing those individuals to perform work for the third party, under the supervision of the third party,” for “limited-term assignments” (C.R.S. 8-73-105.5). SB210 adds no *new* “employee leasing” certification requirements — for example: an SHSA that functions as a “temporary help contracting firm” remains exempt from “employee leasing” certification. Violations may be referred to other state agencies requiring registration or certification.

² The Notice of Fine for non-compliance is a matter of public record once any investigation is concluded. The following agencies have committed violations in two or more compliance periods and, therefore, have been assessed fines of at least \$20,000:

Synergy Staffing Inc.

This list will be updated to include any additional repeat violators.

- **Healthcare Workers:** The SHSA must report on workers it employs for temporary placement in a healthcare facility. HCPF and CDPHE list the following worker categories for SB210 reporting:

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|-----------------------------|--------------------------------|--|
| 1. Director of Nursing | 5. Certified Nursing Assistant | 9. Other: not just other kinds of care workers, also including administrative, janitorial, and other workers not performing direct care to patients (described in the report). |
| 2. Registered Nurse | 6. Physical Therapy | |
| 3. Licensed Practical Nurse | 7. Occupational Therapy | |
| 4. Speech Therapy | 8. Respiratory Therapy | |

Periods Within the Compliance Period

The **Compliance Period** refers to periods of months for when an agency must submit a report and for when the Division may assess fines against an agency if the agency does not submit a report.

The total Compliance Period contains:

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|-------------------------------------|-----------------------------------|
| (1) Reporting Period | (3) Non-Compliance Period |
| (2) Delinquency Grace Period | (4) Fine Collection Period |

Notices and Orders to Pay Fines the Division May Send During the Compliance Period

- There are **four notices registered SHSAs can receive during the Compliance Period:** (i) Reporting, (ii) Notice of Delinquent or Incomplete Report, (iii) Notice of Non-Compliant Report, and (iv) Notice of Fine.
 - An agency that has not yet registered should contact the Health Staffing Program. New agencies will receive a Staffing Agency Instructions letter rather than a reminder email.
 - Emails and emails containing PDFs of the Division's notices **are formal notices that require a response.**

CO Supplemental Healthcare Staffing Mandatory Report Due Email

- All SHSAs enrolled in the Division's database that have reported in previous Compliance Periods will receive an email notifying them of the upcoming Compliance Period (either Spring or Fall) and providing the date for when the Reporting Period opens, which is also when the agencies will be allowed to submit their reports.

Notice of Delinquent or Incomplete Report and Delinquency Fine

- During the Delinquency Grace Period (the month immediately after the Reporting Period), an agency that didn't submit a report will receive a Notice of Delinquent or Incomplete Report, but no fines will be assessed.
- The Notice of Delinquent or Incomplete Report is sent, within 6 days after the Reporting Period deadline, to an agency that:
 - **failed to submit** a report by the reporting deadline; or
 - **submitted an incomplete or non-compliant report that needs correction** (this is why you might receive a notice even though you did submit a report).
- The Notice of Delinquent or Incomplete Report warns that a **\$500 fine will be ordered** at the start of the **following month** if a report is not received within **two (2) weeks** after the end of the Delinquency Grace Period.
- Additional fines may be ordered if an agency doesn't fully respond to a request for clarification, additional information, or additional documentation.³

³ The Division may order fines based on the following statutes: C.R.S. 8-1-114(2) (" Any employer or employee who fails or refuses to furnish information as may be required by the division under authority of this article 1 shall pay a penalty of not less than fifty dollars for each day that the failure or refusal continues. The division shall transmit any penalty imposed and collected pursuant to this section to the state treasurer, who shall credit the money to the wage theft enforcement fund created in section 8-4-113(3)."); C.R.S. 8-1-117(2) ("Any employer that refuses to exhibit and furnish to the director or any agents of the division an inspection of any books, records, and payrolls of the employer, showing or reflecting in any way upon the amount of wage expenditure of the employer, and other data, facts, and statistics appertaining to the purposes of this article 1 or that refuses to admit the director or any agent of the division to any place of employment shall pay a penalty of not less than fifty dollars for each day that the failure, neglect, or refusal continues. The division shall transmit any penalty imposed and collected pursuant to this section to the state treasurer, who shall credit the money to the wage theft enforcement fund created in section 8-4-113(3)."); C.R.S. 8-1-140 (2) ("If any employer, employee, or any other person fails, refuses, or neglects to perform any duty lawfully enjoined within the time prescribed by the director or fails, neglects, or refuses to obey any lawful order made by the director or any judgment or decree made by any court as provided in this article 1, for each such violation, the employer, employee, or any other person shall pay a penalty of not less than one hundred dollars for each day the violation, failure, neglect, or refusal continues. The division shall transmit any penalty imposed and collected pursuant to this section to the state treasurer, who shall credit the money to the wage theft enforcement fund created in section 8-4-113(3).").

Notice of Non-Compliant Report and Non-Compliance Fine

- The Notice of Non-Compliant Report is sent within six (6) days after the end of the Delinquency Grace Period to an agency that failed to submit a report during the Delinquency Grace Period.
- A **\$500 fine will be assessed**, unless an agency shows good cause, with evidence, for not submitting a timely, compliant report.

Notice of Fine

- After the Non-Compliance Period, the Division reviews agency reports for accuracy and completeness.
- If an agency is found to have not submitted a report, or submitted an incomplete or late report without having submitted a request for a good-cause extension, the Division will send a Notice of Fine for Delinquent or Non-Compliant Report.
- This notice contains all amounts assessed during the Compliance Period that became due and payable.
 - **If an agency fails to pay an assessed fine, the Division may send the outstanding debts to collections.**

Good Cause Deadline Extensions and Waivers and Submission of Supportive Evidence

- The Division has discretionary authority to extend deadlines or waive/reduce fines if an agency shows good cause in support of such extensions with evidence.
- Good cause typically means the agency, despite reasonable efforts to meet its duties, failed those duties due to circumstances beyond its control, without alternative options. Factors for assessing good cause include:
 - (a) whether the agency had notice of its duty to submit a report;
 - (b) the agency's record of past compliance or non-compliance;
 - (c) whether the failure traces (partly or fully) to persons or events outside the agency's control;
 - (d) how promptly the agency eventually corrected its failure or requested an extension; or
 - (e) overall, whether evidence does or doesn't show good faith and reasonable diligence by the agency.

Requesting a Deadline Extension

- Agencies can request an extension to the **initial** deadline to submit their report for the Division's consideration. Extension requests must be submitted to the Division **no later than 15 days after the close of the Reporting Period (Spring Reporting Period - May 15; Fall Reporting Period - November 15)**. Extensions are granted discretionarily upon request when accompanied by supportive evidence.

Requesting Fine Waiver

- If an agency reports after a fine has been assessed (after the Delinquency Grace Period has elapsed)
 - Waivers are discretionary, but all waiver requests **must** be accompanied by evidence.
 - For a good cause waiver of the Delinquency Fine to be considered by the Division, an agency must submit the request in writing within **15 days after the Delinquency Grace Period deadline**.
 - If the deadline to submit a good cause fine waiver request has passed, the agency must submit the written request, with supporting documentation, **with their report as an attached document or provide the request to the Healthcare Staffing Program via email**.

Requesting a Fine Reduction

- In lieu of providing a full waiver, the Division may discretionarily reduce any assessed fines. Fine reductions will be accompanied by terms established by the Division. Agreement to such terms must be written to be eligible for fine reduction.

Tips for, and Avoiding Errors in, Submitting Your Report

- If an agency is currently operational in Colorado, the agency **must** submit a report to the Division.
- If an agency is operational in Colorado, and **did not** provide services during either data-collection quarter, **but plans to provide services in the future**, the agency may submit a report stating that no services were provided.
- If an agency **provided services during the data-collection quarters**, but no longer provides services in Colorado, the agency must still submit a report for the time that services were provided or it may be deemed non-compliant.

- If an agency no longer provides services in Colorado, and does not plan to resume operations, then the agency is no longer required to submit a report to the Division.⁴ The agency must notify the Division of this change so it can be removed from the reporting database. An agency that chooses to provide services at any point after being removed from the reporting database **must** notify the Division to be reinstated in the program.
- An agency may submit reports **only** during an active Compliance Period. An agency may not submit reports prior to the beginning of the next Reporting Period or after the Fine Collection Period begins.
- Reports may not be submitted pre-emptively because the data-collection period ends the day before all Reporting Periods begin.

Ensure that the form is entirely completed prior to submitting

- An agency can submit reports online only once during an active Reporting Period. Once a report has been submitted, an agency cannot access the report again. An agency will be prompted, and is encouraged, to review the report in its entirety prior to submission.

If you cannot access the online reporting community:

- Email the Division at cdle_health_staffing@state.co.us if you cannot access the online reporting community.
 - If the issue cannot be resolved via email, the Division may schedule a call with the agency experiencing the technical difficulties.
 - If technical issues persist, a **manual reporting form** may be provided at the Division's discretion.
 - The manual reporting form is saved for instances when an agency has made multiple attempts to access the community portal, has contacted the Division for assistance, and still has difficulties accessing the account.
 - **An agency may not request a manual reporting form prior to trying to submit a report online**, or if the agency has not contacted the Division for assistance in logging into the account.

Corporations vs. LLC

- SB210 requires that **all corporations provide their Articles of Incorporation and Bylaws** with their report submission.
- **Limited Liability Companies do not have Articles of Incorporation**, but rather Articles of Organization.
- **Corporations of all structures are required** to submit their documents; **LLCs are not required** to provide Bylaws or Articles of Organization.

Reasons the Division May Request Additional Materials or Clarifying Information Regarding Your Report

- Some or all certification checkboxes were missed in the submission of the report;
- Documents were not provided, or the information provided requires clarification; and/or
- The data provided in the report seems to be inconsistent or incorrect based on prior reports.

For Agencies with Questions Regarding Certification and Licenses

- The Division serves as an intermediary of data-collection for the **Colorado Department of Public Health and Environment (CDPE)** and the **Colorado Department of Health Care Policy Financing (HCPF)**.
- The Division does **not offer certificates or licenses and is solely responsible for gathering the data required by SB210**.
- If an agency requires assistance regarding certification or licensure, please contact CDPHE at cdphe.healthfacilities@state.co.us or visit their webpage, [Health Facilities Licensure Certification and Registration](#).

For More Information or to Provide or Update Your Contact Information,

SHSAs not yet contacted (or who received a letter with incomplete or incorrect contact information) should submit contact information to the Health Staffing Program. Email cdle_health_staffing@state.co.us or call (720) 235-8291, with questions. For additional information, scan the QR code.



⁴ C.R.S. 8-4-125(3)(a).



Breakdown of the Compliance Period Calendar

(1) Reporting Period

Compliance Period Stages	What Happens During Stage	Important Dates & Deadlines
Spring Report: Period opens April 1 . Fall Report: Period opens October 1 .	<ul style="list-style-type: none"> ❖ Agencies submit reports to the Division via the community portal. Fines are not assessed at this point. ❖ Agencies have the opportunity to request a manual report to make corrections to reports submitted within the initial period. 	Spring Report: Period closes April 30 . Fall Report: Period closes October 31 .

(2) Delinquency Grace Period

Compliance Period Stages	What Happens During Stage	Important Dates & Deadlines
Spring Report: Period begins May 1 . Fall Report: Period begins November 1 .	<ul style="list-style-type: none"> ❖ <i>Notice of Delinquent or Incomplete Report</i> is sent to agencies that did not submit a report in April. ❖ Agencies can submit reports during this time. If the Division requests information from an agency and does not receive a response, fines for failure to provide information or documents may apply pursuant to C.R.S. §§ 8-1-113, -114, and -117. Some of these fines may increase by a fixed amount on a daily basis. Delinquency and Non-Compliance fines will not be assessed. 	Spring Report: Period ends May 31 . Fall Report: Period ends November 30 . The deadline for agencies to request an extension to submit a report is 2 weeks after the end of the Reporting Period .

(3) Non-Compliance Period

Compliance Period Stages	What Happens During Stage	Important Dates & Deadlines
Spring Report: Period begins June 1 . Fall Report: Period begins December 1 .	<ul style="list-style-type: none"> ❖ <i>Notice of Non-Compliant Report</i> is sent to an agency that did not submit during the Delinquency Grace Period. ❖ An agency can still submit its report. To avoid the \$500.00 Delinquency Fine, an agency has until <u>two weeks beyond the close of the Delinquency Grace Period</u> to submit a good-cause waiver with supporting evidence. ❖ All assessed fines vest at the end of the Non-Compliance Period 	Spring Report: Period ends June 30 . Fall Report: Period ends December 31 . The deadline for an agency to submit a good-cause waiver of the Delinquency Fine is 2 weeks after the end of the Delinquency Grace Period .

(4) Fine Collection Period

Compliance Period Stages	What Happens During Stage	Important Dates & Deadlines
Spring Report: Period begins July 1 . Fall Report: Period begins January 1 .	<ul style="list-style-type: none"> ❖ <i>Notice of Fine for Non-Compliant or Delinquent Report</i> is sent to an agency that did not submit a report. ❖ The Division no longer accepts reports (the portal closes, and an agency cannot submit them). ❖ Fines for Non-Compliance (\$10,000.00 or \$20,000.00) and/or Delinquency (\$500.00) may be assessed. ❖ An agency should make fine payments as follows: <ul style="list-style-type: none"> ➢ make to the order of “the Colorado Division of Labor Standards and Statistics - Wage Theft Enforcement Fund”; ➢ mail to the Division at 633 17th St. Denver, CO, 80202; and ➢ note “Healthcare SHSA; DLSS” in the memo line. 	If payment is not made within 35 days from the date the <i>Notice of Fine for Non-Compliant or Delinquent Report</i> was issued, an agency with outstanding fines may be sent to collections.