



Healthcare

# ALERTBULLETIN®

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## Temporary Staffing: Five Keys to Enhanced Safety and Productivity

Temporary staffing arrangements have long been a mainstay of the healthcare industry. Their importance has increased substantially during the coronavirus pandemic, which has affected both the availability of qualified professionals and patient/resident volume. (See “Fast Facts: COVID-19 and the Temporary Staffing Market,” below.)

Staffing companies permit healthcare organizations to adjust their workforce to meet fluctuating needs and conditions, without assuming long-term contractual obligations. However, the flexibility offered by temporary staffing services is offset by certain risks, including the following:

- **Patient/resident safety or quality of care lapses** that may occur when short-term nurses, allied healthcare professionals and medical providers are not properly oriented to organizational policies or adequately trained to care for the patient/resident population.
- **Vicarious liability exposure** for the errors and negligence of temporary hires when facility and practice administrators fail to confirm staffing agency compliance with respect to credentialing, criminal background checks and other regulatory requirements.
- **Diminished morale** when employees learn that temporary hires are being paid a higher wage.
- **Increased turnover** when agency staff find the workplace culture less than welcoming.
- **Reputational damage** due to a transient workforce and diminished continuity of care.
- **Price gouging** by agencies taking advantage of pandemic-related staffing shortages among aging services facilities and other healthcare settings. (See “[House Bill to Study Impact of Staffing Agency Price Gouging](#)” and “[States Addressing Price Gouging in Staffing Agencies](#)” on the [LeadingAge®](#) website.)

At a minimum, healthcare organizations that utilize temporary staffing services should review their written agreements with agencies to ensure that they require appropriate limits of liability insurance and include provisions minimizing the risk of shared liability. (See “Temporary Staff Contracts: Key Provisions and Protections” on [page 3](#).) In addition, administrators should implement orientation and training measures designed to enhance patient/resident safety, ease adjustments, strengthen communication with permanent staff and increase job satisfaction. This issue of *AlertBulletin®* offers the following practical suggestions intended to help organizations maximize the productivity of temporary employees, while minimizing associated professional liability exposures.

### Fast Facts: COVID-19 and the Temporary Staffing Market

- The temporary healthcare staffing market generates about \$20 billion per year in revenue.
- In 2020, the industry expanded by 8 percent during the height of the pandemic and another 7 percent in 2021.
- 2022 revenues are expected to decline, bringing the market back down to 2020 levels.
- Travel nursing experienced the fastest increase of the four major industry segments – i.e., travel nurses, *per diem* nurses, allied healthcare professionals, and *locum tenens* physicians and advanced practice providers – leveling off at a 35 percent growth rate in 2020.
- The *locum tenens* physician and nurse practitioner market is projected to expand by 12 percent in 2022 as the crisis eases and staffing needs stabilize.

(Source: “U.S. Healthcare Staffing Market Assessment: Segment to Grow 7 Percent This Year, Decline in 2022.” *Healthcare Staffing Report*, May 13, 2021.)



### Foster a welcoming culture.

A consistently positive and supportive working environment for temporary staff translates into higher levels of job satisfaction and consistent return assignments, which in turn may help reduce recruitment and overtime costs. The following techniques may aid in establishing a more welcoming atmosphere and a larger and more loyal temporary staff pool:

- **Create and utilize a “welcome video”** including a brief tour of the building to familiarize newcomers with the facility’s layout, entrances, staff parking areas, emergency exits and location of emergency equipment. The video also should address basic safety rules, as well as organizational mission and culture.
- **Inform staff that temporary workers will be joining the team.** Prior to their arrival, fully explain agency staff roles and responsibilities to employees, in order to enhance the reception of newcomers. In addition, request feedback from employees regarding strengths and weaknesses of the temporary staffing program.
- **Ask supervisors to reach out to temporary staff on their first day,** or in the days just prior to their initial assignment. Receiving prompt answers to pressing questions about organizational policies and procedures may result in a positive initial impression.
- **Convey clinical and behavioral expectations before the first assignment,** in order to reinforce desirable conduct and help prevent interpersonal conflicts that may arise. Also ensure that agency staff have been given sufficient time to complete clinical orientation prior to patient/resident care assignments.
- **Require temporary staff to sign a statement acknowledging that they have completed orientation,** understand the information conveyed and accept the rules presented to them. Such signed statements are of critical importance in the event of a claim asserting improper termination or failure to orient temporary hires to requisite standards.
- **Utilize one staffing agency,** when possible, and request a consistent roster of temporary workers.
- **Consider hiring highly competent temporary staff on a long-term basis** by buying out their agency contracts, if permitted.



### Simplify training requirements.

In lieu of lecture-type training sessions, consider giving temporary hires access via portal to online training modules that may be completed prior to commencement of a job assignment. At a minimum, modules should encompass such topics as HIPAA basics, corporate compliance expectations, OSHA regulations, emergency protocols and incident reporting procedures, as well as overviews of electronic health record (EHR) and other clinical data systems, including account and password creation. In general, online training modules should be limited to two hours in length, and include a proficiency test for verification and documentation purposes. Additional information can be provided and questions answered during in-person orientation.

Unlike permanent employees, temporary staff members typically manage their own continuing education. It is, therefore, imperative to check with the agency regarding existing educational credits, as well as gap areas requiring additional training.



### Streamline onboarding procedures.

In many healthcare organizations, temporary staff receive an abridged version of the customary orientation process. The following measures can help ensure that such streamlined onboarding experiences convey necessary information regarding organizational routines and patient/resident safety:

- **Provide a “welcome kit”** that includes important phone numbers, URLs and access codes, as well as a map of the facility and an ID badge that clearly signals agency status.
- **Standardize policies and protocols to reduce undue practice variation** in these key areas, among others:
  - **Medication prescription and administration,** including standing orders, managing electronic alerts and access to pharmaceutical storage carts.
  - **Infectious disease control,** including donning/doffing of personal protective equipment.
  - **Laboratory requisition** and blood product administration processes.
  - **Patient/resident hand-offs** and shift changes.
  - **Telehealth practices** and appropriate use of other communication tools, such as email, texting and portals.
  - **Documentation,** including backup measures during EHR downtime.
- **Appoint an individual to serve as a mentor.** Assign an experienced peer for nurses and allied healthcare professionals, or a medical director, staff recruiter or peer provider for temporary physicians, physician assistants and nurse practitioners. When designating peer mentors or provider liaisons, select individuals who possess broad knowledge of the organization, especially in the following areas: reporting structures, communication channels for obtaining answers to questions and conflict resolution procedures. Whenever possible, utilize a combination of veteran employees and agency staff during shifts, in order to enhance continuity of care.
- **Offer access to an IT professional** who can answer questions about electronic infrastructure, including EHR and computer order entry systems.
- **Explain chain of command procedures** and other unit-specific supervisory structures.

## Temporary Staff Contracts: Key Provisions and Protections

The following suggestions, in concert with those of legal counsel, can help ensure that contracts with staffing agencies prevent potential misunderstandings between parties, as well as limiting undue liability:

### 1. Select a qualified agency.



Check for ...

- **Licensure**, if required by the relevant state regulatory agency.
- **Certification status** with [The Joint Commission](#) or other accrediting organization.
- **Compliance** with state and national regulatory requirements, including HIPAA-related training.

In addition, confirm that the agency ...

- **Captures key performance measures**, such as agency fills, repeat assignments, cancellations and “do not return” requests.
- **Ensures substitute coverage** in the event of “no-shows” or abrupt cancellations by staff members.
- **Performs on-demand review of staff member credentials**, as well as licensure status and skills validation.
- **Has a formal risk management program**, including written procedures for adverse event review.

### 2. Define roles and rights.



Ensure that the contract ...

- **Delineates each party’s responsibilities**, which are realistic and aligned with applicable standards of care.
- **Gives the healthcare organization the right to direct clinical duties** and impose limits on services provided by the temporary staff member.
- **Directs temporary staff to follow organizational policies**, rules and regulations, as well as medical staff bylaws, if applicable.

Also confirm that the healthcare organization ...

- **Reserves the right to request that temporary staff participate in patient/resident safety-related efforts**, including quality assurance, risk management, performance improvement and peer review activities, as applicable and appropriate.
- **Has the right of immediate dismissal** for short-term employees who fail to meet organizational standards.

### 3. Assign contractual duties.



Confirm that the agency is responsible for ...

- **Performing a comprehensive applicant background check**, including credentials verification, as well as a criminal record and sexual offender registry search.
- **Verifying continuing education** training and dates.
- **Confirming immunization status** and health screenings.
- **Conducting competency tests**, maintaining a skills inventory and completing performance evaluations.

Confirm that the healthcare organization is responsible for ...

- **Specifying in writing the necessary credentials and qualifications for the position being filled**, and accepting only those individuals who meet the stated requirements.
- **Conducting daily oversight** of the temporary staff member.
- **Periodically auditing the staffing agency** for compliance with contractual duties.

### 4. Negotiate key provisions.



Verify that the contract includes negotiated insurance-related requirements for agency staff, such as ...

- **Professional liability insurance coverage** at stated limits (e.g., 1M/3M per occurrence, per hiree), as documented by a certificate of insurance.
- **Continuous insurance coverage** during the contract period.
- **Notification requirements** in the event an insurance policy is canceled, coverage is reduced or the temporary staffer changes insurance providers.

Also verify that the contract includes additional negotiated risk-related provisions, such as ...

- **Risk transfer language**, including hold harmless and indemnification provisions.
- **A confidentiality clause**, renewal provisions and cancellation procedures.
- **Contract termination rights** if the temporary staffer fails to comply with agreement terms.

### 5. Include protective language.



- **Verify that the contract specifies that the agency is the employer of the temporary staff member**, to reduce the potential for later conflict and liability.

- **Ensure that the contract expressly states that the healthcare organization has limited obligations toward the temporary staff member**, and is not responsible for worker’s compensation, billing arrangements or professional liability insurance.



### Promote two-way communication.

Regular staff meetings, huddles and clinical rounds give temporary workers a sense of support and belonging when navigating unfamiliar clinical settings, while ensuring that everyone on the treatment team remains cognizant of new team members. And, as previously noted, leadership can help temporary staff acclimate more rapidly to unfamiliar surroundings by assigning peer mentors or provider liaisons.

With respect to *locum tenens* providers, allow a one-day overlap with the outgoing provider, if possible, so that the *locum tenens* may ask questions and discuss patient/resident assignments. Alternatively, arrange for the current and incoming provider to confer on the telephone prior to the changeover.



### Provide constructive feedback.

The staffing agency should retain primary responsibility for evaluating the performance of temporary staff.

Otherwise, the healthcare facility may appear to have an employer-employee relationship with the temporary worker, potentially increasing vicarious liability exposure. To reduce legal exposure while enhancing patient/resident safety, facilities should supervise and monitor the performance of temporary employees, relaying essential findings to the agency. Written supervisory guidelines should focus, at a minimum, on the following indicators:

- **Mastery of relevant skills** and general clinical competence.
- **Compliance with practice protocols** and consistency in completing designated tasks.
- **Appropriateness of response time** to urgent or unexpected situations.
- **Openness and frequency of communication** with other members of the treatment team.
- **Accuracy of documentation** and timeliness of progress notes.
- **Promptness in reporting errors**, as well as integrity and thoroughness.
- **Overall reliability** and professionalism.

Minimizing the risks associated with utilizing temporary staff is more than careful drafting of agency contracts. It also requires a commitment to providing short-term employees the welcome, training and ongoing support needed to adjust quickly and smoothly to a new environment, and to perform their assigned duties in a safe, effective and professional manner.

## Quick Links

- [“2022 Survey of Locum Tenens Staffing Trends: Moving Toward a More Flexible Physician Workforce.”](#) Prepared by AMN Healthcare, May 2022.
- CNA *inBrief*® 2021-1, [“Contractual Risk: Understanding Indemnification and Subrogation.”](#)
- [“Staffing Agency Contracts.”](#) A patient safety tip sheet, published by the American Society for Health Care Risk Management.

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