




Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Home Health Agency Bulletin 88
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TO: Home Health Agencies Participating in MassHealth

FROM: Mike Levine, Assistant Secretary for MassHealth 

RE: **Prohibited Contracts or Agreements with Agency Nurses Providing Nursing Services**

Introduction

This bulletin serves as a reminder of the contracts or agreements between a home health agency and a registered nurse (RN) or licensed practical nurse (LPN) that are unenforceable in accordance with M.G.L. c. 112, s. 74D.

Relevant Language from M.G.L. c. 112, s. 74D

M.G.L. c. 112, s. 74D states:

Any contract or agreement which creates or establishes the terms of a partnership, employment, or any other form of professional relationship with a nurse registered to practice as a registered nurse pursuant to section seventy-four, or a practical nurse registered to practice as a licensed practical nurse pursuant to section seventy-four A, which includes any restriction of the right of such nurse to practice as a nurse in any geographical area for any period of time after the termination of such partnership, employment or professional relationship shall be void and unenforceable with respect to said restriction. Nothing in this section shall render void or unenforceable any other provision of any such contract or agreement.

Accordingly, home health agencies may not condition a RN or LPN's employment on the nurse signing a noncompete agreement or any other agreement that would prevent the nurse from seeking and securing additional employment as a nurse while still working for the agency, or alternative nursing employment after the nurse has left the home health agency's employment. Such practices violate state law and may be subject to sanction under the MassHealth program, including but not limited to termination of the home health agency's MassHealth provider agreement, in accordance with 130 CMR 450.238.

MassHealth Website

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Questions

If you have questions about the information in this bulletin, please contact the Long Term Services and Supports (LTSS) Provider Service Center.

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