

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Nurse Agency Licensing Act is amended by
5 changing Sections 3, 13, 14, and 14.3 as follows:

6 (225 ILCS 510/3) (from Ch. 111, par. 953)

7 Sec. 3. Definitions. As used in this Act:

8 "Certified nurse aide" means an individual certified as
9 defined in Section 3-206 of the Nursing Home Care Act, Section
10 3-206 of the ID/DD Community Care Act, or Section 3-206 of the
11 MC/DD Act, as now or hereafter amended.

12 "Covenant not to compete" means an agreement between a
13 nurse agency and an employee that restricts the employee from
14 performing:

15 (1) any work for another employer for a specified
16 period of time;

17 (2) any work in a specified geographic area; or

18 (3) any work for another employer that is similar to
19 the work the employee performs for the employer that is a
20 party to the agreement.

21 "Department" means the Department of Labor.

22 "Director" means the Director of Labor.

23 "Employee" means a nurse or a certified nurse aide.

1 "Health care facility" is defined as in Section 3 of the
2 Illinois Health Facilities Planning Act, as now or hereafter
3 amended. "Health care facility" also includes any facility
4 licensed, certified, or approved by any State agency and
5 subject to regulation under the Assisted Living and Shared
6 Housing Act or the Illinois Public Aid Code.

7 "Licensee" means any nurse ~~nursing~~ agency which is
8 properly licensed under this Act.

9 "Long-term basis" means the placement of a nurse or a
10 certified nurse aide at a health care facility for an initial
11 employment, assignment, or referral term of more than 24
12 continuous months by a nurse agency that incurs the following
13 expenses to place the nurse or certified nurse aide at the
14 health care facility: (i) educational material expenses, if
15 required; (ii) expenses for credentialing, licensure, or
16 certification; or (iii) expenses for airline travel, lodging,
17 meals, and ground transportation provided to a nurse or
18 certified nurse aide. "Long-term basis" does not include the
19 placement of a nurse or a certified nurse aide at a health care
20 facility for an initial employment, assignment, or referral
21 term of an undefined duration.

22 "Nurse" means a registered nurse, a licensed practical
23 nurse, an advanced practice registered nurse, or any
24 individual licensed under the Nurse Practice Act.

25 "Nurse agency" means any individual, firm, corporation,
26 partnership, or other legal entity that employs, assigns, or

1 refers nurses or certified nurse aides to a health care
2 facility for a fee. The term "nurse agency" includes nurses
3 registries. The term "nurse agency" does not include services
4 provided by home health agencies licensed and operated under
5 the Home Health, Home Services, and Home Nursing Agency
6 Licensing Act or a licensed or certified individual who
7 provides his or her own services as a regular employee of a
8 health care facility, nor does it apply to a health care
9 facility's organizing nonsalaried employees to provide
10 services only in that facility.

11 "Temporary basis" means an initial employment, assignment,
12 or referral term of an undefined duration or a duration of 24
13 continuous months or less exclusive of any extension.

14 (Source: P.A. 102-946, eff. 7-1-22.)

15 (225 ILCS 510/13) (from Ch. 111, par. 963)

16 Sec. 13. Application for employment.

17 (a) Every nurse agency shall cause each applicant for
18 employment, assignment, or referral, as a nurse to complete an
19 application form including the following information:

20 (1) name and address of the applicant;

21 (2) whether or not such applicant is a nurse currently
22 licensed by the Department of Financial and Professional
23 Regulation;

24 (3) if so licensed, the number and date of such
25 license; and

1 (4) references and dates and places of previous
2 employment.

3 Prior to employing, assigning, or referring a nurse, the
4 agency shall contact the Department of Financial and
5 Professional Regulation to determine whether the nurse's
6 license is valid and in good standing. Written verification
7 shall be sent by the Department of Financial and Professional
8 Regulation within 20 working days. At least biennially
9 thereafter, the nurse agency shall contact the Department of
10 Financial and Professional Regulation to verify this
11 information in writing. The nurse agency shall review the
12 disciplinary report published by the Department of Financial
13 and Professional Regulation on a monthly basis to determine
14 whether the nurse's license is valid and in good standing.

15 (b) Every nurse agency shall cause each applicant for
16 employment, assignment, or referral, as a certified nurse aide
17 to complete an application form including the following
18 information:

19 (1) name and address of the applicant;

20 (2) whether or not the nurse aide is registered as
21 having completed a certified course as approved by the
22 Department of Public Health; and

23 (3) references and dates and places of previous
24 employment.

25 Prior to employing, assigning, or referring a certified
26 nurse aide, the agency shall review the information provided

1 on the Health Care Worker Registry to verify that the
2 certification is valid. Prior to employing, assigning, or
3 referring a certified nurse aide to a position at a health care
4 employer or long-term facility as defined in the Health Care
5 Worker Background Check Act, the nurse agency shall review the
6 information provided on the Health Care Worker Registry to
7 verify that the certified nurse aide is not ineligible for the
8 position pursuant to Section 25 of the Health Care Worker
9 Background Check Act.

10 (c) Every nurse agency shall check at least 2 recent
11 references and the dates of employment provided by the
12 applicant, unless the applicant has not had 2 previous
13 employers.

14 (d) Knowingly employing, assigning, or referring to a
15 health care facility a nurse or certified nurse aide with an
16 illegally or fraudulently obtained or issued diploma,
17 registration, license, certificate, or background study
18 constitutes negligent hiring by a nurse agency and is a
19 violation of this Act.

20 (e) Nurses or certified nurses aides employed, assigned,
21 or referred to a health care facility by a nurse agency shall
22 be deemed to be employees of the nurse agency while working for
23 the nurse agency or on nurse agency employment, assignment, or
24 referral and may only be terminated by the nurse agency for
25 cause.

26 (Source: P.A. 102-946, eff. 7-1-22; revised 8-22-22.)

1 (225 ILCS 510/14) (from Ch. 111, par. 964)

2 Sec. 14. Minimum Standards.

3 (a) The Department, by rule, shall establish minimum
4 standards for the operation of nurse agencies. Those standards
5 shall include, but are not limited to:

6 (1) the maintenance of written policies and
7 procedures;

8 (2) the maintenance and submission to the Department
9 of copies of all contracts between the nurse agency and
10 health care facility to which it assigns or refers nurses
11 or certified nurse aides and copies of all invoices to
12 health care facilities personnel. Executed contracts must
13 be sent to the Department within 5 business days of their
14 effective date; and

15 (3) the development of personnel policies for nurses
16 or certified nurse aides employed, assigned, or referred
17 to health care facilities, including a personal interview,
18 a reference check, an annual evaluation of each employee
19 (which may be based in part upon information provided by
20 health care facilities utilizing nurse agency personnel),
21 and periodic health examinations. Executed contracts must
22 be sent to the Department within 5 business days of their
23 effective date and are not subject to disclosure under the
24 Freedom of Information Act.

25 No less than 100% of the nurse or certified nurse aide

1 hourly rate shall be paid to the nurse or certified nurse
2 aide employee.

3 (b) Each nurse agency shall have a nurse serving as a
4 manager or supervisor of all nurses and certified nurses
5 aides.

6 (c) Each nurse agency shall ensure that its employees meet
7 the minimum licensing, training, continuing education, and
8 orientation standards for which those employees are licensed
9 or certified.

10 (d) A nurse agency shall not employ, assign, or refer for
11 use in an Illinois health care facility a nurse or certified
12 nurse aide unless certified or licensed under applicable
13 provisions of State and federal law or regulations. Each
14 certified nurse aide shall comply with all pertinent
15 regulations of the Illinois Department of Public Health
16 relating to the health and other qualifications of personnel
17 employed in health care facilities.

18 (e) The Department may adopt rules to monitor the usage of
19 nurse agency services to determine their impact.

20 (f) Nurse agencies are prohibited from recruiting
21 potential employees on the premises of a health care facility
22 or requiring, as a condition of employment, assignment, or
23 referral, that their employees recruit new employees for the
24 nurse agency from among the permanent employees of the health
25 care facility to which the nurse agency employees have been
26 employed, assigned, or referred, and the health care facility

1 to which such employees are employed, assigned, or referred is
2 prohibited from requiring, as a condition of employment, that
3 their employees recruit new employees from these nurse agency
4 employees. Violation of this provision is a business offense.

5 (g) Nurse agencies are prohibited from entering into
6 covenants not to compete with nurses and certified nurse aides
7 if the nurse is employed, assigned, or referred by a nurse
8 agency to a health care facility on a temporary basis or the
9 certified nurse aide is employed, assigned, or referred by a
10 nurse agency to a health care facility on a temporary basis. A
11 covenant not to compete entered into on or after July 1, 2022
12 (the effective date of Public Act 102-946) ~~this amendatory Act~~
13 ~~of the 102nd General Assembly~~ between a nurse agency and a
14 nurse or a certified nurse aide is illegal and void if (i) the
15 nurse is employed, assigned, or referred by a nurse agency to a
16 health care facility on a temporary basis or (ii) the
17 certified nurse aide is employed, assigned, or referred by a
18 nurse agency to a health care facility on a temporary basis is
19 ~~illegal and void.~~ In ~~The nursing agency shall not, in any~~
20 ~~contract~~ on a temporary basis with any nurse, certified nurse
21 aide, employee or health care facility, a nurse agency is
22 prohibited from requiring ~~require~~ the payment of liquidated
23 damages, conversion fees, employment fees, buy-out fees,
24 placement fees, or other compensation if the nurse or
25 certified nurse aide ~~employee~~ is hired as a permanent employee
26 of a health care facility.

1 (g-5) Beginning on the effective date of this amendatory
2 Act of the 102nd General Assembly and ending on December 31,
3 2027, a nurse agency may enter into a covenant not to compete
4 with a nurse or a certified nurse aide if (i) the nurse is
5 employed, assigned, or referred by a nurse agency to a health
6 care facility on a long-term basis or (ii) the certified nurse
7 aide is employed, assigned, or referred by a nurse agency to a
8 health care facility on a long-term basis. However, if a
9 covenant not to compete that was entered into on or before
10 December 31, 2027 expires on or after January 1, 2028, the
11 covenant not to compete shall remain in effect until its
12 expiration date. To be enforceable, the term of a covenant not
13 to compete entered into under this subsection must be
14 concurrent with the term of the initial employment,
15 assignment, or referral of the nurse or certified nurse aide
16 to a health care facility. A contract on a long-term basis
17 between any nurse, certified nurse aide, or health care
18 facility and a nurse agency may provide for the payment of
19 actual damages, conversion fees, employment fees, buy-out
20 fees, placement fees, or other reasonable expenses resulting
21 from a violation of the contract that occurred during the
22 initial employment, assignment, or referral term.

23 (h) A nurse agency shall submit a report quarterly to the
24 Department for each health care entity with whom the agency
25 contracts that includes all of the following by provider type
26 and county in which the work was performed:

1 (1) A list of the average amount charged to the health
2 care facility for each individual employee category.

3 (2) A list of the average amount paid by the agency to
4 employees in each individual employee category.

5 (3) A list of the average amount of labor-related
6 costs paid by the agency for each employee category,
7 including payroll taxes, workers' compensation insurance,
8 professional liability coverage, credentialing and
9 testing, and other employee related costs.

10 The Department shall publish by county in which the work
11 was performed the average amount charged to the health care
12 facilities by nurse agencies for each individual worker
13 category and the average amount paid by the agency to each
14 individual worker category.

15 (i) The Department shall publish on its website the
16 reports yearly by county.

17 (j) The Department of Labor shall compel production of the
18 maintained records, as required under this Section, by the
19 nurse agencies.

20 (Source: P.A. 102-946, eff. 7-1-22.)

21 (225 ILCS 510/14.3)

22 Sec. 14.3. Contracts between nurse agencies and health
23 care facilities.

24 (a) A contract entered into on or after the effective date
25 of this amendatory Act of the 102nd General Assembly between

1 the nurse agency and health care facility must contain the
2 following provisions:

3 (1) A full disclosure of charges and compensation. The
4 disclosure shall include a schedule of all hourly bill
5 rates per category of employee, a full description of
6 administrative charges, and a schedule of rates of all
7 compensation per category of employee, including, but not
8 limited to, hourly regular pay rate, shift differential,
9 weekend differential, hazard pay, charge nurse add-on,
10 overtime, holiday pay, and travel or mileage pay.

11 (2) A commitment that nurses or certified nurse aides
12 employed, assigned, or referred to a health care facility
13 by the nurse agency perform any and all duties called for
14 within the full scope of practice for which the nurse or
15 certified nurse aide is licensed or certified.

16 (3) No less than 100% of the nurse or certified nurse
17 aide hourly rate shall be paid to the nurse or certified
18 nurse aide employee.

19 (b) A party's failure to comply with the requirements of
20 subsection (a) shall be a defense to the enforcement of a
21 contract between a nurse agency and a health care facility.
22 Any health care facility or nurse agency aggrieved by a
23 violation of subsection (a) shall have a right of action in a
24 State court against the offending party. A prevailing party
25 may recover for each violation:

26 (1) liquidated damages of \$1,500 or actual damages,

1 whichever is greater;

2 (2) reasonable attorney's fees and costs, including
3 expert witness fees and other litigation expenses; and

4 (3) other relief, including an injunction, as the
5 court may deem appropriate.

6 (c) This Section does not apply to contracts on a
7 long-term basis between a nurse agency and a health care
8 facility providing for the employment, assignment, or referral
9 of nurses or certified nurse aides to the health care
10 facility.

11 (Source: P.A. 102-946, eff. 7-1-22.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.