

100TH GENERAL ASSEMBLY State of Illinois 2017 and 2018 HB4100

by Rep. Stephanie A. Kifowit

SYNOPSIS AS INTRODUCED:

See Index

Amends the Nurse Practice Act. Defines "retail health care facility". Creates provisions concerning workplace violence against nurses in specified medical facilities concerning notice, contacting law enforcement, and mental health services. Requires specified medical facilities to create a workplace violence prevention program with specified requirements. Provides whistleblower protections for any nurse of a specified medical facility if management retaliates against the nurse for certain actions. Provides appropriate cross references in the Department of Veterans Affairs Act, the University of Illinois Hospital Act, the MC/DD Act, the ID/DD Community Care Act, and the Hospital Licensing Act. Amends the Unified Code of Corrections. Provides that Department of Corrections and Department of Juvenile Justice institutions or facilities shall provide notice and specified protections when a committed person is transferred out of the institution or facility to receive medical care and treatment.

LRB100 13779 SMS 28501 b

FISCAL NOTE ACT

1 AN ACT concerning regulation.

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

Section 5. The Department of Veterans Affairs Act is amended by changing Section 2.07 as follows:

6 (20 ILCS 2805/2.07) (from Ch. 126 1/2, par. 67.07)

Sec. 2.07. The Department shall employ and maintain sufficient and qualified staff at the veterans' homes (i) to fill all beds, subject to appropriation, and (ii) to fulfill the requirements of this Act. The Department shall report to the General Assembly, by January 1 and July 1 of each year, the number of staff employed in providing direct patient care at their veterans' homes, the compliance or noncompliance with staffing standards established by the United States Department of Veterans Affairs for such care, and in the event of noncompliance with such standards, the number of staff required for compliance. For purposes of this Section, a nurse who has a license application pending with the State shall not be deemed unqualified by the Department if the nurse is in compliance with Section 50-15 of the Nurse Practice Act.

A veterans home shall be subject to Sections 85-10, 85-15, and 85-20 of the Nurse Practice Act.

23 (Source: P.A. 96-699, eff. 8-25-09; 97-297, eff. 1-1-12.)

- 1 Section 10. The University of Illinois Hospital Act is
- 2 amended by adding Section 10 as follows:
- 3 (110 ILCS 330/10 new)
- 4 Sec. 10. Compliance with the Nurse Practice Act. The
- 5 <u>University of Illinois Hospital shall comply with Sections</u>
- 6 85-10, 85-15, and 85-20 of the Nurse Practice Act.
- 7 Section 15. The MC/DD Act is amended by adding Section
- 8 2-219 as follows:
- 9 (210 ILCS 46/2-219 new)
- 10 Sec. 2-219. Compliance with the Nurse Practice Act. A
- 11 facility licensed under this Act shall comply with Sections
- 12 85-10, 85-15, and 85-20 of the Nurse Practice Act.
- Section 20. The ID/DD Community Care Act is amended by
- 14 adding Section 2-219 as follows:
- 15 (210 ILCS 47/2-219 new)
- Sec. 2-219. Compliance with the Nurse Practice Act. A
- 17 facility licensed under this Act shall comply with Sections
- 18 85-10, 85-15, and 85-20 of the Nurse Practice Act.
- 19 Section 25. The Hospital Licensing Act is amended by adding

- 1 Section 9.7 as follows:
- 2 (210 ILCS 85/9.7 new)
- 3 Sec. 9.7. Compliance with the Nurse Practice Act. A
- 4 hospital licensed under this Act shall comply with Sections
- 5 85-10, 85-15, and 85-20 of the Nurse Practice Act.
- 6 Section 30. The Nurse Practice Act is amended by changing
- 7 Sections 55-15, 60-20, and 65-15 by adding Article 85 as
- 8 follows:
- 9 (225 ILCS 65/55-15)
- 10 (Section scheduled to be repealed on January 1, 2018)
- 11 Sec. 55-15. LPN license expiration; renewal. The
- 12 expiration date and renewal period for each license to practice
- 13 practical nursing issued under this Act shall be set by rule.
- 14 The holder of a license may renew the license during the month
- 15 preceding the expiration date of the license by paying the
- 16 required fee. It is the responsibility of the licensee to
- 17 notify the Department in writing of a change of address.
- The Department shall verify that a holder of a license has
- 19 completed the safety and health training required in Section
- 20 85-15 of this Act before renewing the holder's license.
- 21 (Source: P.A. 95-639, eff. 10-5-07.)
- 22 (225 ILCS 65/60-20)

- 1 (Section scheduled to be repealed on January 1, 2018)
- 2 Sec. 60-20. Expiration of RN license; renewal. The
- 3 expiration date and renewal period for each registered
- 4 professional nurse license issued under this Act shall be set
- 5 by rule. The holder of a license may renew the license during
- 6 the month preceding the expiration date of the license by
- 7 paying the required fee. It is the responsibility of the
- 8 licensee to notify the Department in writing of a change of
- 9 address.
- The Department shall verify that a holder of a license has
- 11 completed the safety and health training required in Section
- 12 85-15 of this Act before renewing the holder's license.
- 13 (Source: P.A. 95-639, eff. 10-5-07.)
- 14 (225 ILCS 65/65-15)
- 15 (Section scheduled to be repealed on January 1, 2018)
- Sec. 65-15. Expiration of APN license; renewal.
- 17 (a) The expiration date and renewal period for each
- 18 advanced practice nurse license issued under this Act shall be
- 19 set by rule. The holder of a license may renew the license
- 20 during the month preceding the expiration date of the license
- 21 by paying the required fee. It is the responsibility of the
- licensee to notify the Department in writing of a change of
- address.
- 24 (b) On and after May 30, 2020, except as provided in
- 25 subsections (c) and (d) of this Section, each advanced practice

- nurse is required to show proof of continued, current national certification in the specialty.
 - (c) An advanced practice nurse who does not meet the educational requirements necessary to obtain national certification but has continuously held an unencumbered license under this Act since 2001 shall not be required to show proof of national certification in the specialty to renew his or her advanced practice nurse license.
 - (d) The Department may renew the license of an advanced practice nurse who applies for renewal of his or her license on or before May 30, 2016 and is unable to provide proof of continued, current national certification in the specialty but complies with all other renewal requirements.
 - (e) Any advanced practice nurse license renewed on and after May 31, 2016 based on the changes made to this Section by this amendatory Act of the 99th General Assembly shall be retroactive to the expiration date.
 - (f) The Department shall verify that a holder of a license has completed the safety and health training required in Section 85-15 of this Act before renewing the holder's license.
- 22 (225 ILCS 65/Art. 85 heading new)
- 23 ARTICLE 85. WORKPLACE SAFETY

(Source: P.A. 99-505, eff. 5-27-16.)

24 (225 ILCS 65/85-5 new)

Sec.	85-5. De	efiniti	ons. For	the pu	rposes c	of thi	s Artic	le,
<u>"retail</u>	health	care	facility	y" or	"facil:	ity"	means	an
institut	ion, plac	e, or b	uilding,	or any	portion	there	eof, tha	<u>t:</u>

- (1) is devoted to the maintenance and operation of a facility for the performance of health care services and is located within a retail store or pharmacy at a specific location;
- (2) does not provide surgical services or any form of general anesthesia;
 - (3) does not provide beds or other accommodations for either the long-term or overnight stay of patients; and
- 12 (4) discharges individual patients in an ambulatory
 13 condition without danger to the continued well-being of the
 14 patients and transfers non-ambulatory patients to
 15 hospitals.

"Retail health care facility" or "facility" does not include hospitals, long-term care facilities, ambulatory treatment centers, blood banks, clinical laboratories, offices of physicians, advanced practice nurses, podiatrists, and physician assistants, and pharmacies that provide pharmaceutical services.

- 22 (225 ILCS 65/85-10 new)
- Sec. 85-10. Workplace safety.
- 24 <u>(a) This Section applies to a retail health care facility,</u>
 25 a hospital or facility subject to the Hospital Licensing Act,

- 1 the University of Illinois Hospital Act, the MC/DD Act, or the
- 2 <u>ID/DD Community Care Act, and a veterans home as defined in the</u>
- 3 <u>Department of Veterans Affairs Act.</u>
- 4 (b) A nurse that contacts law enforcement or files a
- 5 complaint against a patient or individual because of workplace
- 6 violence shall provide notice to management of the retail
- 7 health care facility, hospital, facility, or veterans home in
- 8 which he or she is employed within 3 days after contacting law
- 9 enforcement or filing the complaint.
- 10 (c) No management of a retail health care facility,
- 11 hospital, <u>facility</u>, or veterans home may discourage a nurse
- from exercising his or her right to contact law enforcement or
- file a complaint because of workplace violence.
- 14 (d) A retail health care facility, hospital, facility, or
- 15 veterans home that employs any nurse licensed under this Act
- shall display a notice stating that verbal aggression will not
- 17 be tolerated and physical assault will be prosecuted to the
- 18 fullest extent of the law.
- 19 (e) The retail health care facility, hospital, facility, or
- 20 veterans home shall provide mental health services for a nurse
- 21 that is a victim of workplace violence.
- 22 (225 ILCS 65/85-15 new)
- 23 <u>Sec. 85-15. Workplace violence prevention program.</u>
- 24 (a) This Section applies to a hospital or facility subject
- 25 to the Hospital Licensing Act, the University of Illinois

Hospital Act, the MC/DD Act, or the ID/DD Community Care Act 1 2 and a veterans home as defined in the Department of Veterans 3 Affairs Act. 4 (b) A hospital, facility, or veterans home shall create a 5 workplace violence prevention program that includes: 6 (1) management commitment and worker participation; (2) worksite analysis and identification of potential 7 8 hazards; 9 (3) hazard prevention and control; 10 (4) safety and health training with required hours 11 determined by rule; and 12 (5) recordkeeping and evaluation of the violence 13 prevention program. 14 (225 ILCS 65/85-20 new) 15 Sec. 85-20. Whistleblower protection. 16 (a) This Section applies to a retail health care facility, a hospital or facility subject to the Hospital Licensing Act, 17 18 the University of Illinois Hospital Act, the MC/DD Act, or the ID/DD Community Care Act, and a veterans home as defined in the 19 20 Department of Veterans Affairs Act. 21 (b) In this Section, "retaliatory action" means the 22 reprimand, discharge, suspension, demotion, denial of 23 promotion or transfer, or change in the terms and conditions of 24 employment of any nurse employed by a retail health care

facility, hospital, facility, or veterans home that is taken in

1	retaliation for the nurse's involvement in a protected activity
2	as set forth in paragraphs (1) through (4) of subsection (c).
3	(c) A retail health care facility, hospital, facility, or
4	veterans home may not take any retaliatory action against a
5	nurse employed by the retail health care facility, hospital,
6	facility, or veterans home because the nurse does any of the
7	<pre>following:</pre>
8	(1) discloses or threatens to disclose to a supervisor
9	or to a public body an activity, policy, or practice
10	implemented by or inaction by a retail health care
11	facility, hospital, facility, or veterans home that the
12	nurse reasonably believes is in violation of a law, rule,
13	or regulation;
14	(2) provides information to or testifies before any
15	public body conducting an investigation, hearing, or
16	inquiry into any violation of a law, rule, or regulation by
17	a retail health care facility, hospital, facility, or
18	<u>veterans home;</u>
19	(3) files a complaint against a patient or individual
20	for assault that took place while working as a nurse in the
21	retail health care facility, hospital, facility, or
22	veterans home; or
23	(4) assists or participates in a proceeding to enforce
24	the provisions of this Act.
25	(d) A violation of this Section may be established only
26	upon a finding that (i) the nurse employed by the retail health

1	care facility, hospital, facility, or veterans home engaged in
2	conduct described in subsection (c) of this Section, and (ii)
3	this conduct was a contributing factor in the retaliatory
4	action alleged by the nurse. There is no violation of this
5	Section, however, if the retail health care facility, hospital,
6	facility, or veterans home demonstrates by clear and convincing
7	evidence that it would have taken the same unfavorable
8	personnel action in the absence of that conduct.

- (e) The nurse employed by the retail health care facility, hospital, facility, or veterans home may be awarded all remedies necessary to make the nurse whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:
- (1) Reinstatement of the nurse to either the same position held before the retaliatory action or to an equivalent position.
 - (2) Two times the amount of back pay.
- (3) Interest on the back pay.
- 20 <u>(4) Reinstatement of full fringe benefits and</u>
 21 <u>seniority rights.</u>
 - (5) Payment of reasonable costs and attorney's fees.
 - (f) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of a nurse employed by a retail health care facility, hospital, facility, or veterans home under any other federal or State law, rule, or regulation or

1 <u>under any employment contract.</u>

- 2 Section 35. The Unified Code of Corrections is amended by
- 3 changing Section 3-6-2 as follows:
- 4 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)
- 5 Sec. 3-6-2. Institutions and Facility Administration.
- 6 (a) Each institution and facility of the Department shall
- 7 be administered by a chief administrative officer appointed by
- 8 the Director. A chief administrative officer shall be
- 9 responsible for all persons assigned to the institution or
- 10 facility. The chief administrative officer shall administer
- 11 the programs of the Department for the custody and treatment of
- 12 such persons.
- 13 (b) The chief administrative officer shall have such
- 14 assistants as the Department may assign.
- 15 (c) The Director or Assistant Director shall have the
- 16 emergency powers to temporarily transfer individuals without
- formal procedures to any State, county, municipal or regional
- 18 correctional or detention institution or facility in the State,
- 19 subject to the acceptance of such receiving institution or
- 20 facility, or to designate any reasonably secure place in the
- 21 State as such an institution or facility and to make transfers
- thereto. However, transfers made under emergency powers shall
- 23 be reviewed as soon as practicable under Article 8, and shall
- 24 be subject to Section 5-905 of the Juvenile Court Act of 1987.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

This Section shall not apply to transfers to the Department of Human Services which are provided for under Section 3-8-5 or Section 3-10-5.

(d) The Department shall provide educational programs for all committed persons so that all persons have an opportunity to attain the achievement level equivalent to the completion of the twelfth grade in the public school system in this State. Other higher levels of attainment shall be encouraged and professional instruction shall be maintained wherever possible. The Department may establish programs of mandatory education and may establish rules and regulations for the administration of such programs. A person committed to the Department who, during the period of his or her incarceration, participates in an educational program provided by or through the Department and through that program is awarded or earns the number of hours of credit required for the award of an associate, baccalaureate, or higher degree from a community college, college, or university located in Illinois shall reimburse the State, through the Department, for the costs incurred by the State in providing that person during his or her incarceration with the education that qualifies him or her for the award of that degree. The costs for which reimbursement is required under this subsection shall be determined and computed by the Department under rules and regulations that it shall establish for that purpose. However, interest at the rate of 6% per annum shall be charged on the balance of those costs

- from time to time remaining unpaid, from the date of the person's parole, mandatory supervised release, or release constituting a final termination of his or her commitment to the Department until paid.
 - (d-5) A person committed to the Department is entitled to confidential testing for infection with human immunodeficiency virus (HIV) and to counseling in connection with such testing, with no copay to the committed person. A person committed to the Department who has tested positive for infection with HIV is entitled to medical care while incarcerated, counseling, and referrals to support services, in connection with that positive test result. Implementation of this subsection (d-5) is subject to appropriation.
 - (e) A person committed to the Department who becomes in need of medical or surgical treatment but is incapable of giving consent thereto shall receive such medical or surgical treatment by the chief administrative officer consenting on the person's behalf. Before the chief administrative officer consents, he or she shall obtain the advice of one or more physicians licensed to practice medicine in all its branches in this State. If such physician or physicians advise:
 - (1) that immediate medical or surgical treatment is required relative to a condition threatening to cause death, damage or impairment to bodily functions, or disfigurement; and
 - (2) that the person is not capable of giving consent to

such treatment; the chief administrative officer may give consent for such medical or surgical treatment, and such consent shall be deemed to be the consent of the person for all purposes, including, but not limited to, the authority of a physician to give such treatment.

- (e-5) If a physician providing medical care to a committed person on behalf of the Department advises the chief administrative officer that the committed person's mental or physical health has deteriorated as a result of the cessation of ingestion of food or liquid to the point where medical or surgical treatment is required to prevent death, damage, or impairment to bodily functions, the chief administrative officer may authorize such medical or surgical treatment.
- (f) In the event that the person requires medical care and treatment at a place other than the institution or facility, the person may be removed therefrom under conditions prescribed by the Department. The Department shall require the committed person receiving medical or dental services on a non-emergency basis to pay a \$5 co-payment to the Department for each visit for medical or dental services. The amount of each co-payment shall be deducted from the committed person's individual account. A committed person who has a chronic illness, as defined by Department rules and regulations, shall be exempt from the \$5 co-payment for treatment of the chronic illness. A committed person shall not be subject to a \$5 co-payment for follow-up visits ordered by a physician, who is employed by, or

contracts with, the Department. A committed person who is indigent is exempt from the \$5 co-payment and is entitled to receive medical or dental services on the same basis as a committed person who is financially able to afford the co-payment. For purposes of this Section only, "indigent" means a committed person who has \$20 or less in his or her Inmate Trust Fund at the time of such services and for the 30 days prior to such services. Notwithstanding any other provision in this subsection (f) to the contrary, any person committed to any facility operated by the Department of Juvenile Justice, as set forth in Section 3-2.5-15 of this Code, is exempt from the co-payment requirement for the duration of confinement in those facilities.

- (f-5) In the event that a person receives medical care and treatment at a place other than the Department of Corrections or Department of Juvenile Justice institution or facility, the institution or facility shall:
 - (1) contact the hospital or medical facility that is treating the person prior to the person's visit, except in situations of a medical emergency;
 - (2) provide 2 guards to accompany the person at all times during the visit to the hospital or medical facility;
 - (3) ensure the person is wearing security restraints on wrists and ankles at all times; and
 - (4) prevent anyone from visiting the person, except medical personnel, unless death is imminent. In the event

1	that death is imminent:
2	(A) the hospital or medical facility shall follow
3	the rules required by the facility or institution for
4	<u>visitation;</u>
5	(B) the name of the visitor must be listed per the
6	facility's or institution's documentation;
7	(C) the visitor shall submit to the search of his
8	or her person or any personal property under his or her
9	<pre>control at any time;</pre>
10	(D) the visitor and person shall not have access to
11	a telephone;
12	(E) only one visitor may be allowed to meet with
13	the person at a time.
14	(g) Any person having sole custody of a child at the time
15	of commitment or any woman giving birth to a child after her
16	commitment, may arrange through the Department of Children and
17	Family Services for suitable placement of the child outside of
18	the Department of Corrections. The Director of the Department
19	of Corrections may determine that there are special reasons why
20	the child should continue in the custody of the mother until
21	the child is 6 years old.
22	(h) The Department may provide Family Responsibility
23	Services which may consist of, but not be limited to the
24	following:
25	(1) family advocacy counseling;
26	(2) parent self-help group;

7

8

9

17

18

19

20

21

22

23

24

25

26

- 1 (3) parenting skills training;
- 2 (4) parent and child overnight program;
- 3 (5) parent and child reunification counseling, either 4 separately or together, preceding the inmate's release; 5 and
 - (6) a prerelease reunification staffing involving the family advocate, the inmate and the child's counselor, or both and the inmate.
 - (i) (Blank).
- (j) Any person convicted of a sex offense as defined in the

 Sex Offender Management Board Act shall be required to receive

 a sex offender evaluation prior to release into the community

 from the Department of Corrections. The sex offender evaluation

 shall be conducted in conformance with the standards and

 guidelines developed under the Sex Offender Management Board

 Act and by an evaluator approved by the Board.
 - (k) Any minor committed to the Department of Juvenile Justice for a sex offense as defined by the Sex Offender Management Board Act shall be required to undergo sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the Sex Offender Management Board Act.
 - (1) Prior to the release of any inmate committed to a facility of the Department or the Department of Juvenile Justice, the Department must provide the inmate with appropriate information verbally, in writing, by video, or

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

other electronic means, concerning HIV and AIDS. The Department shall develop the informational materials in consultation with the Department of Public Health. At the same time, the Department must also offer the committed person the option of testing for infection with human immunodeficiency virus (HIV), with no copayment for the test. Pre-test information shall be provided to the committed person and informed consent obtained as required in subsection (d) of Section 3 and Section 5 of the AIDS Confidentiality Act. The Department may conduct opt-out HIV testing as defined in Section 4 of the AIDS Confidentiality Act. If the Department conducts opt-out HIV testing, the Department shall place signs in English, Spanish and other languages as needed in multiple, highly visible locations in the area where HIV testing is conducted informing inmates that they will be tested for HIV unless they refuse, and refusal or acceptance of testing shall be documented in the inmate's The Department shall follow procedures medical record. established by the Department of Public Health to conduct HIV testing and testing to confirm positive HIV test results. All testing must be conducted by medical personnel, but pre-test and other information may be provided by committed persons who have received appropriate training. The Department, conjunction with the Department of Public Health, shall develop a plan that complies with the AIDS Confidentiality Act to deliver confidentially all positive or negative HIV test results to inmates or former inmates. Nothing in this Section

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

shall require the Department to offer HIV testing to an inmate who is known to be infected with HIV, or who has been tested for HIV within the previous 180 days and whose documented HIV test result is available to the Department electronically. The testing provided under this subsection (1) shall consist of a test approved by the Illinois Department of Public Health to determine the presence of HIV infection, based upon recommendations of the United States Centers for Disease Control and Prevention. If the test result is positive, a reliable supplemental test based upon recommendations of the United States Centers for Disease Control and Prevention shall be administered.

Prior to the release of an inmate who the Department knows has tested positive for infection with HIV, the Department in a timely manner shall offer the inmate transitional case management, including referrals to other support services.

- (m) The chief administrative officer of each institution or facility of the Department shall make a room in the institution or facility available for addiction recovery services to be provided to committed persons on a voluntary basis. The services shall be provided for one hour once a week at a time specified by the chief administrative officer of the institution or facility if the following conditions are met:
 - (1) the addiction recovery service contacts the chief administrative officer to arrange the meeting;
 - (2) the committed person may attend the meeting for

addic	tion	recovery	servi	ces	only	7 if	the	committed	pe:	rson
uses	pre-	existing	free	tin	ne a	lread	dy a	available	to	the
commi	tted	person;								

- (3) all disciplinary and other rules of the institution or facility remain in effect;
- (4) the committed person is not given any additional privileges to attend addiction recovery services;
- (5) if the addiction recovery service does not arrange for scheduling a meeting for that week, no addiction recovery services shall be provided to the committed person in the institution or facility for that week;
- (6) the number of committed persons who may attend an addiction recovery meeting shall not exceed 40 during any session held at the correctional institution or facility;
- (7) a volunteer seeking to provide addiction recovery services under this subsection (m) must submit an application to the Department of Corrections under existing Department rules and the Department must review the application within 60 days after submission of the application to the Department; and
- (8) each institution and facility of the Department shall manage the addiction recovery services program according to its own processes and procedures.

For the purposes of this subsection (m), "addiction recovery services" means recovery services for alcoholics and addicts provided by volunteers of recovery support services

- 1 recognized by the Department of Human Services.
- 2 (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,
- 3 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;
- 4 97-813, eff. 7-13-12.)

INDEX 1 2 Statutes amended in order of appearance 20 ILCS 2805/2.07 from Ch. 126 1/2, par. 67.07 3 110 ILCS 330/10 new 5 210 ILCS 46/2-219 new 210 ILCS 47/2-219 new 6 7 210 ILCS 85/9.7 new 8 225 ILCS 65/55-15 9 225 ILCS 65/60-20 10 225 ILCS 65/65-15 11 225 ILCS 65/Art. 85 heading new 12 225 ILCS 65/85-5 new 13 14 225 ILCS 65/85-10 new 15 225 ILCS 65/85-15 new 16 225 ILCS 65/85-20 new

730 ILCS 5/3-6-2 from Ch. 38, par. 1003-6-2