

AN ACT concerning regulation.

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

Section 5. The Freedom of Information Act is amended by changing Section 7.5 as follows:

(5 ILCS 140/7.5)

Sec. 7.5. Statutory exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating

to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by carriers under the Emergency Telephone System Act.

(k) Law enforcement officer identification information

or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Department of Transportation under Sections 2705-300 and 2705-616 of the Department of Transportation Law of the

Civil Administrative Code of Illinois, the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act, or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Record Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(t) All identified or deidentified health information in the form of health data or medical records contained in, stored in, submitted to, transferred by, or released from the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" shall be given the same meaning as in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any subsequent amendments thereto, and any regulations promulgated thereunder.

(u) Records and information provided to an independent

team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law).

(v) Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Owners Identification Card Act or applied for or received a concealed carry license under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act; and databases under the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act, and law enforcement agency objections under the Firearm Concealed Carry Act.

(v-5) Records of the Firearm Owner's Identification Card Review Board that are exempted from disclosure under Section 10 of the Firearm Owners Identification Card Act.

(w) Personally identifiable information which is exempted from disclosure under subsection (g) of Section 19.1 of the Toll Highway Act.

(x) Information which is exempted from disclosure under Section 5-1014.3 of the Counties Code or Section 8-11-21 of the Illinois Municipal Code.

(y) Confidential information under the Adult Protective Services Act and its predecessor enabling statute, the Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated

decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act.

(z) Records and information provided to a fatality review team or the Illinois Fatality Review Team Advisory Council under Section 15 of the Adult Protective Services Act.

(aa) Information which is exempted from disclosure under Section 2.37 of the Wildlife Code.

(bb) Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987.

(cc) Recordings made under the Law Enforcement Officer-Worn Body Camera Act, except to the extent authorized under that Act.

(dd) Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act.

(ee) Information that is exempted from disclosure under Section 30.1 of the Pharmacy Practice Act.

(ff) Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act.

(gg) Information that is prohibited from being disclosed under Section 7-603.5 of the Illinois Vehicle Code.

(hh) Records that are exempt from disclosure under Section 1A-16.7 of the Election Code.

(ii) Information which is exempted from disclosure under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

(jj) Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor service agencies but are exempt from disclosure under subsection (a-1) of Section 45 of the Day and Temporary Labor Services Act.

(kk) Information prohibited from disclosure under the Seizure and Forfeiture Reporting Act.

(ll) Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code.

(mm) Records that are exempt from disclosure under Section 4.2 of the Crime Victims Compensation Act.

(nn) Information that is exempt from disclosure under Section 70 of the Higher Education Student Assistance Act.

(oo) Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act.

(pp) Names and all identifying information relating to an employee of an emergency services provider or law enforcement agency under the First Responders Suicide Prevention Act.

(qq) Information and records held by the Department of

Public Health and its authorized representatives collected under the Reproductive Health Act.

(rr) Information that is exempt from disclosure under the Cannabis Regulation and Tax Act.

(ss) Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act.

(tt) Recordings made under the Children's Advocacy Center Act, except to the extent authorized under that Act.

(uu) Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act.

(vv) Information that is exempt from disclosure under subsections (f) and (j) of Section 5-36 of the Illinois Public Aid Code.

(ww) Information that is exempt from disclosure under Section 16.8 of the State Treasurer Act.

(xx) Information that is exempt from disclosure or information that shall not be made public under the Illinois Insurance Code.

(yy) Information prohibited from being disclosed under the Illinois Educational Labor Relations Act.

(zz) Information prohibited from being disclosed under the Illinois Public Labor Relations Act.

(aaa) Information prohibited from being disclosed under Section 1-167 of the Illinois Pension Code.



(bbb) ~~(ccc)~~ Information that is prohibited from disclosure by the Illinois Police Training Act and the Illinois State Police Act.

(ccc) ~~(ddd)~~ Records exempt from disclosure under Section 2605-304 of the Illinois Department of State Police Law of the Civil Administrative Code of Illinois.

(ddd) ~~(bbb)~~ Information prohibited from being disclosed under Section 35 of the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act.

(eee) ~~(ddd)~~ Information prohibited from being disclosed under subsection (b) of Section 75 of the Domestic Violence Fatality Review Act.

(fff) Information prohibited from disclosure under paragraph (3) of subsection (a) of Section 14 of the Nurse Agency Licensing Act.

(Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19; 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff. 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237, eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff. 8-20-21; revised 10-5-21.)

Section 10. The Nurse Agency Licensing Act is amended by

changing Sections 3, 5, 7, 13, 14, and 14.1 and by adding Section 14.3 as follows:

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

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

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

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

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

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

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

~~(b)~~ "Department" means the Department of Labor.

~~(c)~~ "Director" means the Director of Labor.

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

~~(d)~~ "Health care facility" is defined as in Section 3 of the Illinois Health Facilities Planning Act, as now or hereafter amended. "Health care facility" also includes any facility licensed, certified, or approved by any State agency and subject to regulation under the Assisted Living and Shared

Housing Act or the Illinois Public Aid Code.

~~(e)~~ "Licensee" means any nursing agency which is properly licensed under this Act.

~~(f)~~ "Nurse" means a registered nurse, ~~or~~ a licensed practical nurse, an advanced practice registered nurse, or any individual licensed under ~~as defined in~~ the Nurse Practice Act.

~~(g)~~ "Nurse agency" means any individual, firm, corporation, partnership or other legal entity that employs, assigns or refers nurses or certified nurse aides to a health care facility for a fee. The term "nurse agency" includes nurses registries. The term "nurse agency" does not include services provided by home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act or a licensed or certified individual who provides his or her own services as a regular employee of a health care facility, nor does it apply to a health care facility's organizing nonsalaried employees to provide services only in that facility.

(Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

(225 ILCS 510/5) (from Ch. 111, par. 955)

Sec. 5. Application for license. An application to operate a nurse agency shall be made to the Department on forms provided by the Department. A separate application shall be submitted for each additional location from which a nurse

agency is operated. All applications must be under oath and must be accompanied by an equitable application fee which will be set by the Department by rule. A separate license must be obtained for each location from which a nurse agency is operated unless the nurse agency is owned and managed by the same person or persons. Submission of false or misleading information is a petty offense punishable by a fine of \$500. The application shall contain the following information:

(1) name and address of the person, partnership, corporation or other entity that is the applicant;

(2) if the applicant is a corporation or limited liability company, a copy of its articles of incorporation or organization, a copy of its current bylaws, and the names and addresses of its officers and directors and shareholders owning more than 5% of the corporation's stock or membership units;

(3) the name and location of premises from which the applicant will provide services;

(4) the names and addresses of the person or persons under whose management or supervision the nurse agency will be operated;

(5) a statement of financial solvency;

(6) a statement detailing the experience and qualifications of the applicant to operate a nurse agency, however, the failure of a nurse agency to demonstrate previous experience to operate an agency does not in and of itself

constitute grounds for the denial of a license;

(7) evidence of compliance or intent to comply with State or federal law relating to employee compensation, including but not limited to, social security taxes, State and federal income taxes, workers' compensation, unemployment taxes, and State and federal overtime compensation laws;

(8) evidence of general and professional liability insurance in the amounts of at least \$1,000,000 ~~\$500,000~~ per incident and \$3,000,000 ~~\$1,000,000~~ in aggregate and workers' compensation coverage for all nurses or certified nursing aides employed, assigned, or referred by the nurse agency to a health care facility; and

(8.5) copies of all currently effective contracts with health care facilities; and

(9) any other relevant information which the Department determines is necessary to properly evaluate the applicant and application as required by the Department by rule.

(Source: P.A. 86-817; 86-1043; 86-1472; 87-435.)

(225 ILCS 510/7) (from Ch. 111, par. 957)

Sec. 7. Renewal of license. At least 90 days prior to license expiration, the licensee shall submit an attestation detailing the number of contracted shifts, number of shifts missed, number of shifts fulfilled for the 3 quarters preceding the application date, and an application which meets the requirements of Section 5 of this Act for renewal of the

license. If the application is approved pursuant to Section 6, the license shall be renewed for an additional one-year period.

(Source: P.A. 86-817; 86-1043.)

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

Sec. 13. Application for employment.

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

- (1) name and address of the applicant;
- (2) whether or not such applicant is a nurse currently licensed by the Department of Professional Regulation;
- (3) if so licensed, the number and date of such license; and
- (4) references and dates and places of previous employment.

Prior to employing, assigning, or referring a nurse, the agency shall contact the Department of Financial and Professional Regulation to determine whether the nurse's license is valid and in good standing. Written verification shall be sent by the Department of Financial and Professional Regulation within 20 working days. At least biennially thereafter, the nurse agency shall contact the Department of Financial and Professional Regulation to verify this information in writing. The nurse agency shall review the

disciplinary report published by the Department of Financial and Professional Regulation on a monthly basis to determine whether the nurse's license is valid and in good standing.

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

(1) name and address of the applicant;

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

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

Prior to employing, assigning, or referring a certified nurse aide, the agency shall review the information provided on the Health Care Worker Registry to verify that the certification is valid. Prior to employing, assigning, or referring a certified nurse aide to a position at a health care employer or long-term facility as defined in the Health Care Worker Background Check Act, the nurse agency shall review the information provided on the Health Care Worker Registry to verify ~~and~~ that the certified nurse aide is not ineligible for the position to be hired by health care employers or long-term care facilities pursuant to Section 25 of the Health Care Worker Background Check Act.

(c) Every nurse agency shall check at least 2 recent

references and the dates of employment provided by the applicant, unless the applicant has not had 2 previous employers.

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

(e) ~~(d)~~ Nurses or certified nurses aides employed, assigned, or referred to a health care facility by a nurse agency shall be deemed to be employees of the nurse agency while working for the nurse agency or on nurse agency employment, assignment or referral.

(Source: P.A. 99-652, eff. 1-1-17.)

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

Sec. 14. Minimum Standards.

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

(1) the maintenance of written policies and procedures;

(2) the maintenance and submission to the Department of copies of all contracts between the nurse agency and health care facility to which it assigns or refers nurses



or certified nurse aides and copies of all invoices to health care facilities personnel. Executed contracts must be sent to the Department within 5 business days of their effective date ~~and procedures~~; and

(3) ~~(2)~~ the development of personnel policies for nurses or certified nurse aides employed, assigned, or referred to health care facilities, including ~~which include~~ a personal interview, a reference check, an annual evaluation of each employee (which may be based in part upon information provided by health care facilities utilizing nurse agency personnel) and periodic health examinations. Executed contracts must be sent to the Department within 5 business days of their effective date and are not subject to disclosure under the Freedom of Information Act. No less than 100% of the nurse or certified nurse aide hourly rate shall be paid to the nurse or certified nurse aide employee.

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

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

(d) A nurse agency shall not employ, assign, or refer for use in an Illinois health care facility a nurse or certified

nurse aide unless certified or licensed under applicable provisions of State and federal law or regulations. Each certified nurse aide shall comply with all pertinent regulations of the Illinois Department of Public Health relating to the health and other qualifications of personnel employed in health care facilities.

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

(f) Nurse agencies are prohibited from recruiting potential employees on the premises of a health care facility or requiring, as a condition of employment, assignment, or referral, that their employees recruit new employees for the nurse agency from among the permanent employees of the health care facility to which the nurse agency employees have been employed, assigned, or referred, and the health care facility to which such employees are employed, assigned, or referred is prohibited from requiring, as a condition of employment, that their employees recruit new employees from these nurse agency employees. Violation of this provision is a business offense.

(g) Nurse agencies are prohibited from entering into covenants not to compete with nurses and certified nurse aides. A covenant not to compete entered into on or after the effective date of this amendatory Act of the 102nd General Assembly between a nurse agency and a nurse or certified nurse aide is illegal and void. The nursing agency shall not, in any contract with any employee or health care facility, require

the payment of liquidated damages, conversion fees, employment fees, buy-out fees, placement fees, or other compensation if the employee is hired as a permanent employee of a health care facility.

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

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

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

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

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

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

(j) The Department of Labor shall compel production of the maintained records, as required under this Section, by the

nurse agencies.

(Source: P.A. 86-817.)

(225 ILCS 510/14.1)

Sec. 14.1. Investigations; orders; civil penalties.

(a) The Department may at any time, and shall upon receiving a complaint from any interested person, investigate any person licensed or applying for a license under this Act suspected of violating any provision of any Section except Section 14.3. The Department shall investigate any person who operates or advertises a nurse agency without being licensed under this Act. The Department shall establish a system of reporting complaints against a health care staffing agency. The Department shall publish on its website how an interested party may submit a complaint of a violation of this Act to the Department. Complaints may be made by an interested party. Complaints against a nurse agency shall be investigated by the Department of Labor. The investigations shall take into consideration the responsibility of health care facilities under Section 12 for supervising nurse agency employees assigned or referred to the facilities. For purposes of this Section, "interested party" means a health care facility, nurse staffing agency, or an employee of a health care facility or nurse staffing agency.

The Director or his or her authorized representative may examine the premises of any nurse agency, may compel by

subpoena, for examination or inspection, the attendance and testimony of witnesses and the production of books, payrolls, records, papers and other evidence in any investigation or hearing, and may administer oaths or affirmations to witnesses.

(b) After appropriate notice and hearing, and if supported by the evidence, the Department may issue and cause to be served on any person an order to cease and desist from violation of this Act and to take any further action that is reasonable to eliminate the effect of the violation of any Section except Section 14.3.

Whenever it appears that any person has violated a valid order of the Department issued under this Act, the Director may commence an action and obtain from the court an order directing the person to obey the order of the Department or be subject to punishment for contempt of court.

The Department may petition the court for an order enjoining any violation of any Section of this Act except Section 14.3.

(c) Any licensee or applicant who violates any provision of this Act or the rules adopted under this Act shall be subject to a civil penalty of \$10,000 per occurrence payable to the Department for the purpose of enforcing this Act ~~\$1,000 per day for each violation~~. Civil penalties may be assessed by the Department in an administrative action and may, if necessary, be recovered in a civil action brought by the

Director through the Attorney General of the State of Illinois or the State's attorney of any county in which the violation occurred. The court may order that the civil penalties assessed for violation of this Act, together with any costs or attorney's fees arising out of the action to collect the penalties, be paid to the Department. The fact that the violation has ceased does not excuse any person from liability for civil penalties arising from the violation.

(d) Any nurse staffing agency that has been found not to have paid an employee 100% of the hourly wage rate identified in the contract between such nurse staffing agency and health care facility shall be liable to the employee for the actual amount of the underpayment, plus damages of 5% of the amount of the underpayment.

(Source: P.A. 88-230.)

(225 ILCS 510/14.3 new)

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

(a) A contract entered into on or after the effective date of this amendatory Act of the 102nd General Assembly between the nurse agency and health care facility must contain the following provisions:

(1) A full disclosure of charges and compensation. The disclosure shall include a schedule of all hourly bill rates per category of employee, a full description of

administrative charges, and a schedule of rates of all compensation per category of employee, including, but not limited to, hourly regular pay rate, shift differential, weekend differential, hazard pay, charge nurse add-on, overtime, holiday pay, and travel or mileage pay.

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

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

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

(1) liquidated damages of \$1,500 or actual damages, whichever is greater;

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

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

Public Act 102-0946

HB4666 Enrolled

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Section 99. Effective date. This Act takes effect July 1,  
2022.