

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

6 (5 ILCS 140/7.5)

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

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

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

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

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

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

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

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

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

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

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

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

26 (k) Law enforcement officer identification information

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

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

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

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

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

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Department of Transportation under Sections 2705-300 and
26 2705-616 of the Department of Transportation Law of the

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

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

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

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

12 (t) All identified or deidentified health information
13 in the form of health data or medical records contained
14 in, stored in, submitted to, transferred by, or released
15 from the Illinois Health Information Exchange, and
16 identified or deidentified health information in the form
17 of health data and medical records of the Illinois Health
18 Information Exchange in the possession of the Illinois
19 Health Information Exchange Office due to its
20 administration of the Illinois Health Information
21 Exchange. The terms "identified" and "deidentified" shall
22 be given the same meaning as in the Health Insurance
23 Portability and Accountability Act of 1996, Public Law
24 104-191, or any subsequent amendments thereto, and any
25 regulations promulgated thereunder.

26 (u) Records and information provided to an independent

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

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

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

16 (w) Personally identifiable information which is
17 exempted from disclosure under subsection (g) of Section
18 19.1 of the Toll Highway Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (qq) Information and records held by the Department of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
18 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
19 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
20 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
21 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
22 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
23 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
24 102-559, eff. 8-20-21; revised 10-5-21.)

25 Section 10. The Nurse Agency Licensing Act is amended by

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

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

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

5 ~~(a)~~ "Certified nurse aide" means an individual certified
6 as defined in Section 3-206 of the Nursing Home Care Act,
7 Section 3-206 of the ID/DD Community Care Act, or Section
8 3-206 of the MC/DD Act, as now or hereafter amended.

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

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

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

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

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

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

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

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

1 Housing Act or the Illinois Public Aid Code.

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

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

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

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

21 (225 ILCS 510/5) (from Ch. 111, par. 955)

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

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

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

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

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

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

22 (5) a statement of financial solvency;

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

1 constitute grounds for the denial of a license;

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

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

13 (8.5) copies of all currently effective contracts with
14 health care facilities; and

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

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

19 (225 ILCS 510/7) (from Ch. 111, par. 957)

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

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

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

5 (225 ILCS 510/13) (from Ch. 111, par. 963)

6 Sec. 13. Application for employment.

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

10 (1) name and address of the applicant;

11 (2) whether or not such applicant is a nurse currently
12 licensed by the Department of Professional Regulation;

13 (3) if so licensed, the number and date of such
14 license; and

15 (4) references and dates and places of previous
16 employment.

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

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

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

8 (1) name and address of the applicant;

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

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

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

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

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

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

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

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

16 (225 ILCS 510/14) (from Ch. 111, par. 964)

17 Sec. 14. Minimum Standards.

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

21 (1) the maintenance of written policies and
22 procedures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 nurse agencies.

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

3 (225 ILCS 510/14.1)

4 Sec. 14.1. Investigations; orders; civil penalties.

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

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

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

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

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

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

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

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

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

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

16 (225 ILCS 510/14.3 new)

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

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

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

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

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

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

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

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

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

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

1 Section 99. Effective date. This Act takes effect July 1,
2 2022.