



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5086

Introduced 2/8/2024, by Rep. Lance Yednock

#### SYNOPSIS AS INTRODUCED:

225 ILCS 510/12

from Ch. 111, par. 962

225 ILCS 510/14.3

Amends the Nurse Practice Act. Provides that when a health care facility is found liable for an injury to a patient or resident because of a negligent act performed by a nurse or certified nurse aide employed, assigned, or referred by the nurse agency, the health care facility has a right to be compensated by the nurse agency for any and all expenses, fines, or damages (rather than any and all expenses) incurred related to any liability for the nurse agency's negligence, including negligent hiring (rather than the nurse agency's negligent hiring). Requires a contract entered into between the nurse agency and health care facility to contain a provision specifying that the health care facility has a right to be compensated by the nurse agency for any and all expenses, fines, or damages incurred related to any liability for a negligent act performed by a nurse or certified nurse aide employed, assigned, or referred by the nurse agency. Makes a grammatical change.

LRB103 38463 RTM 68599 b

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 12 and 14.3 as follows:

6 (225 ILCS 510/12) (from Ch. 111, par. 962)

7 Sec. 12. Liability of nurse agencies. Health care  
8 facilities are responsible for supervising nurse agency  
9 employees assigned or referred to the facilities; however,  
10 where a health care facility is found liable for an injury to a  
11 patient or resident because of a negligent act performed by a  
12 nurse or certified nurse aide employed, assigned, or referred  
13 by the nurse agency, the health care facility has a right to be  
14 compensated by the nurse agency for any and all expenses, and  
15 any fines, or damages incurred related to any liability for the  
16 nurse agency's negligence, including negligent hiring.  
17 Negligent hiring by a nurse agency shall be the failure of an  
18 agency to follow the procedures outlined in Section 13 of this  
19 Act. This provision shall not otherwise limit in any way the  
20 actions a health care facility may have against a nurse agency  
21 at law or in equity.

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

1 (225 ILCS 510/14.3)

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

4 (a) A contract entered into on or after the effective date  
5 of this amendatory Act of the 103rd General Assembly ~~this~~  
6 ~~amendatory Act of the 102nd General Assembly~~ between the nurse  
7 agency and health care facility must contain the following  
8 provisions:

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

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

22 (3) A provision requiring that no ~~no~~ less than 100% of  
23 the nurse or certified nurse aide hourly rate shall be  
24 paid to the nurse or certified nurse aide employee.

25 (4) A provision specifying that the health care  
26 facility has a right to be compensated by the nurse agency

1       for any and all expenses, fines, or damages incurred  
2       related to any liability for a negligent act performed by  
3       a nurse or certified nurse aide employed, assigned, or  
4       referred by the nurse agency.

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

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

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

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

18      (c) This Section does not apply to contracts on a  
19      long-term basis between a nurse agency and a health care  
20      facility providing for the employment, assignment, or referral  
21      of nurses or certified nurse aides to the health care  
22      facility.

23      (Source: P.A. 102-946, eff. 7-1-22; 102-1124, eff. 2-3-23.)