



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**  
**HB4436**

Introduced 02/03/04, by Mary E. Flowers

**SYNOPSIS AS INTRODUCED:**

New Act  
210 ILCS 85/7

from Ch. 111 1/2, par. 148

Creates the Continuity of Care Act and amends the Hospital Licensing Act. Requires hospitals to implement a written policy on the use of temporary workers in clinical settings; sets forth matters that must be included in the policy, including a restriction on the use of temporary workers when permanent employees with appropriate qualifications are available. Provides that a hospital may not utilize a temporary worker who is a registered nurse, licensed practical nurse, or certified nurse aide whose clinical area of skills does not meet the requirements for the job assignment. Requires the Department of Public Health to enforce the Act, and makes compliance with the Act a condition of licensure under the Hospital Licensing Act. Provides for a civil penalty of not less than \$1,000 for each shift during which a violation of the Continuity of Care Act occurs or continues. Effective immediately.

LRB093 20597 DRJ 46418 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning hospital workers.

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

4 Section 1. Short title. This Act may be cited as the  
5 Continuity of Care Act.

6 Section 5. Findings. The General Assembly finds that  
7 health care employment agencies are being used to provide  
8 temporary workers to hospitals in Illinois. Permanent  
9 employees have been shown by experience to be superior to  
10 temporary workers in the health care setting. Overuse of  
11 temporary workers results in higher costs to Illinois' system  
12 of health care delivery, disrupts continuity of care, and  
13 negatively affects the quality of health care.

14 Section 10. Definitions. For the purpose of this Act:

15 "Temporary staffing agency" or "agency" means a nurse  
16 agency as defined in the Nurse Agency Licensing Act or any  
17 person or entity who engages in the business of obtaining or  
18 fulfilling commitments for temporary, non-permanent, staffing  
19 at a hospital. The term "temporary staffing agency" or "agency"  
20 does not mean or include any employment counseling service or  
21 any job listing service, or supplemental staffing program  
22 within a hospital.

23 "Hospital" means a health care facility licensed under the  
24 Hospital Licensing Act.

25 "Temporary Worker" means a worker employed by a temporary  
26 staffing agency for the purposes of providing supplemental,  
27 non-permanent staffing at a hospital. "Temporary worker" does  
28 not mean a worker employed by a hospital on an as-needed basis  
29 to supplement staffing.

30 Section 15. Hospital temporary worker policy.

1 (a) A hospital must develop and implement a written policy  
2 on the use of temporary workers in clinical settings. The  
3 policy must include all of the following:

4 (1) A restriction on the use of temporary workers when  
5 permanent employees with appropriate qualifications are,  
6 or should be known by the employer to be, available and  
7 willing to work.

8 (2) An orientation commensurate with orientations  
9 provided for permanent employees. At a minimum, the  
10 orientation must include hospital policies and procedure,  
11 physical layout of the hospital and assigned area or work,  
12 disaster or emergency protocol, infection control, and  
13 patient privacy.

14 (3) Evaluations for temporary workers within 2 days  
15 after taking a work assignment, and thereafter, at a  
16 minimum, as often as permanent employees performing  
17 similar work are evaluated.

18 (4) Visible identification for temporary workers that  
19 clearly distinguishes them from hospital employees  
20 performing similar work.

21 (5) Procedures for verifying and documenting that a  
22 temporary worker whose assignment requires a certification  
23 or professional license under Illinois law holds a valid  
24 license or certificate issued by the State that is not a  
25 temporary or interim license or certificate.

26 (6) Procedures for verifying and documenting that a  
27 temporary worker who is not licensed by the Illinois  
28 Department of Professional Regulation has received a  
29 criminal background check as required in the Health Care  
30 Worker Background Check Act.

31 (b) A hospital may not utilize a temporary worker who is a  
32 registered nurse, licensed practical nurse, or certified nurse  
33 aide whose clinical area of skills does not meet the  
34 requirements for the job assignment.

35 Section 20. Regulatory oversight. The Illinois Department

1 of Public Health is responsible for ensuring compliance with  
2 this Act as a condition of licensure under the Hospital  
3 Licensing Act and shall enforce that compliance according to  
4 the provisions of the Hospital Licensing Act.

5 Section 25. Regulatory penalties. A hospital that violates  
6 any requirement set forth in this Act is subject to a civil  
7 penalty of not less than \$1,000 for each shift during which the  
8 violation occurs or continues. The Department of Public Health  
9 may impose a penalty under this Section after giving the  
10 hospital written notice of the alleged violation and an  
11 opportunity for a hearing at which the hospital may present  
12 oral or written evidence. The Attorney General may bring an  
13 action in the circuit court to enforce the collection of a  
14 penalty imposed under this Section.

15 Section 90. The Hospital Licensing Act is amended by  
16 changing Section 7 as follows:

17 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

18 Sec. 7. (a) The Director after notice and opportunity for  
19 hearing to the applicant or licensee may deny, suspend, or  
20 revoke a permit to establish a hospital or deny, suspend, or  
21 revoke a license to open, conduct, operate, and maintain a  
22 hospital in any case in which he finds that there has been a  
23 substantial failure to comply with the provisions of this Act,  
24 ~~or~~ the Hospital Report Card Act, or the Continuity of Care Act  
25 or the standards, rules, and regulations established by virtue  
26 of any ~~either~~ of those Acts.

27 (b) Such notice shall be effected by registered mail or by  
28 personal service setting forth the particular reasons for the  
29 proposed action and fixing a date, not less than 15 days from  
30 the date of such mailing or service, at which time the  
31 applicant or licensee shall be given an opportunity for a  
32 hearing. Such hearing shall be conducted by the Director or by  
33 an employee of the Department designated in writing by the

1 Director as Hearing Officer to conduct the hearing. On the  
2 basis of any such hearing, or upon default of the applicant or  
3 licensee, the Director shall make a determination specifying  
4 his findings and conclusions. In case of a denial to an  
5 applicant of a permit to establish a hospital, such  
6 determination shall specify the subsection of Section 6 under  
7 which the permit was denied and shall contain findings of fact  
8 forming the basis of such denial. A copy of such determination  
9 shall be sent by registered mail or served personally upon the  
10 applicant or licensee. The decision denying, suspending, or  
11 revoking a permit or a license shall become final 35 days after  
12 it is so mailed or served, unless the applicant or licensee,  
13 within such 35 day period, petitions for review pursuant to  
14 Section 13.

15 (c) The procedure governing hearings authorized by this  
16 Section shall be in accordance with rules promulgated by the  
17 Department and approved by the Hospital Licensing Board. A full  
18 and complete record shall be kept of all proceedings, including  
19 the notice of hearing, complaint, and all other documents in  
20 the nature of pleadings, written motions filed in the  
21 proceedings, and the report and orders of the Director and  
22 Hearing Officer. All testimony shall be reported but need not  
23 be transcribed unless the decision is appealed pursuant to  
24 Section 13. A copy or copies of the transcript may be obtained  
25 by any interested party on payment of the cost of preparing  
26 such copy or copies.

27 (d) The Director or Hearing Officer shall upon his own  
28 motion, or on the written request of any party to the  
29 proceeding, issue subpoenas requiring the attendance and the  
30 giving of testimony by witnesses, and subpoenas duces tecum  
31 requiring the production of books, papers, records, or  
32 memoranda. All subpoenas and subpoenas duces tecum issued under  
33 the terms of this Act may be served by any person of full age.  
34 The fees of witnesses for attendance and travel shall be the  
35 same as the fees of witnesses before the Circuit Court of this  
36 State, such fees to be paid when the witness is excused from

1 further attendance. When the witness is subpoenaed at the  
2 instance of the Director, or Hearing Officer, such fees shall  
3 be paid in the same manner as other expenses of the Department,  
4 and when the witness is subpoenaed at the instance of any other  
5 party to any such proceeding the Department may require that  
6 the cost of service of the subpoena or subpoena duces tecum and  
7 the fee of the witness be borne by the party at whose instance  
8 the witness is summoned. In such case, the Department in its  
9 discretion, may require a deposit to cover the cost of such  
10 service and witness fees. A subpoena or subpoena duces tecum  
11 issued as aforesaid shall be served in the same manner as a  
12 subpoena issued out of a court.

13 (e) Any Circuit Court of this State upon the application of  
14 the Director, or upon the application of any other party to the  
15 proceeding, may, in its discretion, compel the attendance of  
16 witnesses, the production of books, papers, records, or  
17 memoranda and the giving of testimony before the Director or  
18 Hearing Officer conducting an investigation or holding a  
19 hearing authorized by this Act, by an attachment for contempt,  
20 or otherwise, in the same manner as production of evidence may  
21 be compelled before the court.

22 (f) The Director or Hearing Officer, or any party in an  
23 investigation or hearing before the Department, may cause the  
24 depositions of witnesses within the State to be taken in the  
25 manner prescribed by law for like depositions in civil actions  
26 in courts of this State, and to that end compel the attendance  
27 of witnesses and the production of books, papers, records, or  
28 memoranda.

29 (Source: P.A. 93-563, eff. 1-1-04.)

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.