

Illinois Amends Nurse Agency Licensing Act to Prohibit Noncompetes and Add New Reporting Requirements

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With little press coverage, Illinois just amended the Nurse Agency Licensing Act ([House Bill \(HB\) 4666](#)) to prohibit noncompete agreements between nurse staffing agencies and nurses or certified nursing assistants (CNAs) and impose additional reporting requirements. The act is effective for noncompete agreements executed on or after July 1, 2022.

[According to the Illinois Department of Labor \(IDOL\) Acting Director](#), Jane Flanagan

This bill critically protects temporary nurses and nurse aides' right to change jobs or get hired directly by a healthcare facility. It will also increase stability and transparency in the healthcare industry in the state. As the pandemic illustrated time and time again, healthcare workers and the healthcare industry are critical to the well-being of the people of Illinois.

New Noncompete Restrictions

HB 4666 prohibits nurse staffing agencies from:

- entering into noncompete covenants with nurses and CNAs,
- “requir[ing] 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,” and
- “recruiting potential employees on the premises of a health care facility.”

Additional Reporting Requirements

Nurse staffing agencies must now report the following:

- new contracts with health care facilities to the IDOL within five business days of their effective

date,

- quarterly reports to the IDOL “for each health care entity with whom the agency contracts that includes ...:
 - A list of the average amount charged to the health care facility for each individual employee category.
 - A list of the average amount paid by the agency to employees in each individual employee category.
 - 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 insurance, credentialing and testing, and other employee related costs.”

Applying for Licenses and License Renewal

Nurse staffing agencies have additional requirements when applying for a license including the need to provide:

- “evidence of general and professional liability insurance in the amount of at least \$1,000,000 per incident and \$3,000,000 in aggregate and workers’ compensation coverage for all nurses or certified nursing aides employed, assigned, or referred by the nursing agency to a health care facility;
- copies of all currently effective contracts with health care facilities.”

When a nurse staffing agency is seeking to renew its license, at least ninety days before the license expires, the licensee must provide:

- “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 that meets the requirements of the act.

Background Checks

Before a nurse staffing agency employs, assigns, or refers a CNA “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” that the CNA is eligible for the position.

Wages and Contracts With Health Care Facilities

Wages paid to nurses and CNAs must match the wages listed in the nurse staffing agency contract. Any party that fails to pay its employees less than 100 percent of the salary listed in the contract is subject to penalties (see below).

Contracts entered into on or after July 1, 2022, must include the following:

- A full disclosure of charges and compensation, including:
 - 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.

- “A commitment that nurses or [CNAs] 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 [CNA] is licensed or certified.”

IDOL Investigations and Penalties

The IDOL has the right to “investigate any person licensed or applying for a license under the [Nurse Agency Licensing Act] suspected” of violations of the act, at any time, upon receiving a complaint from any “interested person” (e.g., health care facility, nurse staffing agency, or an employee of a health care facility or nurse staffing agency). The act directs the IDOL to publish directions on how an interested person may file a complaint on its website.

Any licensee or applicant that violates any provision of this law shall be subjected to a civil penalty of \$10,000 (up from \$1,000) per violation payable to the IDOL.

Any nurse staffing agency that fails to pay an employee less than 100 percent of the hourly wage listed in the contract between the agency and the health care facility may be subject to damages in the amount of the underpayment, plus a 5 percent penalty of the underpayment.

Key Takeaways

In light of HB 4666, nurse staffing agencies and health care facilities may want to review contracts and existing agreements and prepare for the changes that are required to be made for agreements entered into on or after July 1, 2022.

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