

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Nurse Agency Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 690
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
690.10	Amendment
690.20	Amendment
690.25	New Section
690.30	Amendment
690.40	Amendment
690.50	Amendment
690.55	New Section
690.60	Amendment
690.70	Amendment
690.80	Amendment
690.90	Amendment
690.100	Amendment
690.110	Amendment
690.120	Amendment
690.130	Amendment
690.140	Amendment
690.150	Amendment
690.160	Amendment
690.170	Amendment
690.180	Amendment
690.190	Amendment
690.200	Amendment
690.210	Amendment
690.220	Amendment
690.230	Amendment
690.240	Amendment
- 4) Statutory Authority: Implementing and authorized by the Nurse Agency Licensing Act [225 ILCS 510].
- 5) Complete Description of the Subjects and Issues Involved: This Rulemaking implements Public Act 102-946 and Public Act 102-1124 and pertains to the regulation of staffing agencies that employ, refer, or assign nurses or certified nurse aides to health care facilities as temporary workers. This Rulemaking provides examples intended to provide

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guidance on which entities are subject to the Act and the Part, and provides guidance on interaction with other licensure laws. This Rulemaking requires that, when applying for a nurse agency license, the nurse agency: certify that it holds workers compensation and professional liability insurance; provides to the Department copies of its contracts with facilities; pays an application fee online; and provides data on its shift fulfillment rate for the previous three quarters. This Rulemaking deletes the requirement that the application be notarized, in keeping with the transition to an electronic application process. This Rulemaking increases the application fee as authorized by statute. This Rulemaking outlines requirements for submission of copies of contracts to the Department. This Rulemaking requires the maintenance of records of invoices between nurse agencies and facilities; quarterly labor cost data reporting; updates the process by which nurse agencies must verify licensure of their employees to reflect current state licensure practice; continuing education verification; background checks; on-boarding requirements; employee classification; states that nurse agencies hold responsibility for ensuring that its employees meet applicable requirements; and outlines standards for providing notice to workers upon dispatch. This Rulemaking outlines factors which may allow a nurse agency to enter into a non-compete agreement with an employee. This Rulemaking establishes that the Department may initiate an investigation of a suspected violation with or without a complaint, and sets terms for employer response and hearing. This Rulemaking increases the penalty for a violation as statutorily required.

- 6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge a State mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

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Anna Koepfel
Illinois Department of Labor
Lincoln Tower Plaza
524 S. 2nd Street
Suite 400
Springfield, IL 62701

217-558-1270
Anna.Koepfel@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This Rulemaking will affect small nurse agencies.
 - B) Reporting, bookkeeping or other procedures required for compliance: This Rulemaking requires increased data collection and reporting.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
 - 56 Administrative and Support and Waste Management and Remediation Services
 - 62 Health Care and Social Assistance
 - B) Categories that the agency reasonably believes the rulemaking will impact, including:
 - iv. Insurance changes
 - v. Licensing fees
 - viii. Record keeping
 - ix. Compensation and benefits
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated at the time of the Department's two most recent Regulatory Agendas.

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The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER III: DEPARTMENT OF LABOR

PART 690

NURSE AGENCY LICENSING ACT

Section	
690.10	Delegation of Authority
690.20	Definitions
690.25	Illustrative Examples
690.30	Licensure
690.40	Contents of Licensure Application
690.50	Fee Schedule
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690.60	Expiration and Renewal
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690.80	Application for Employment, Assignment, or Referral
690.90	Prerequisites for Employment, Assignment, or Referral
690.100	Continuing Verifications Evaluation Forms
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690.120	Prohibition on Recruitment as a Condition Conditions of Employment, Assignment and Referral
690.130	Reporting Changes in Management and Stockholders
690.140	Transfer of Ownership
690.150	Inspections and Records
690.160	Complaints and Investigations
690.170	Denial of Initial License or License Renewal
690.180	Suspension Denial of Renewal or Revocation of License
690.190	Hearings
690.200	Considerations in Reaching a Decision
690.210	Fines
690.220	Subpoena
690.230	Determination
690.240	Administrative Review

AUTHORITY: Implementing and authorized by the Nurse Agency Licensing Act [225 ILCS 510].

SOURCE: Adopted at 14 Ill. Reg. 12516, effective July 23, 1990; amended at 25 Ill. Reg. 874,

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effective January 5, 2001; amended at 48 Ill. Reg. _____, effective _____

Section 690.10 Delegation of Authority

The Director of Labor or the Director's~~his/her~~ designated representative ~~of the Department~~ shall have the power and authority to enforce and administer the Illinois Nurse Agency Licensing Act; ~~except the authority to make a final decision in a matter after a formal hearing, which authority remains with the Director. The decision of the Director shall be considered a Final Order.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.20 Definitions

In addition to those definitions found in Section 3 of the Act, the following definitions shall apply for the purposes~~purpose~~ of this Part:~~these regulations~~:

"Act" means the Nurse Agency Licensing Act [225 ILCS 510]~~(Ill. Rev. Stat. 1989, ch. 111, par. 951 et seq.)~~.

"Applicant" means any nurse, ~~licensed practical nurse~~ or certified nurse aide who interviews for employment, assignment, or referral to an Illinois health care facility by a nurse agency.

"Assign" means to designate or identify an individual for placement at a health care facility with the intent that the employee perform certain duties at that health care facility upon placement. "Assign" includes the act of identifying or screening an individual's skills, credentials, availability, and fitness for placement at a health care facility, whether performed through human analysis, the use of an algorithm, software or artificial intelligence, or some combination thereof.

"Certified ~~nurse aide~~Nurse Aide" means an individual certified as defined in a nursing assistant, including a nurse's aide, orderly, or nurse technician registered with the Department of Public Health in accordance with Section 3-206 of the Nursing Home Care Act [210 ILCS 45], Section 3-206 of the ID/DD Community Care Act [210 ILCS 47], or Section 3-206 of the MC/DD Act [210 ILCS 46]~~(Ill. Rev. Stat. 1989, ch. 111½, par. 4153-206)~~.

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

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any work for another employer for a specified period of time;

any work in a specified geographic area; or

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

"Department" means the Illinois Department of Labor.

"Director" means the Director of the Illinois Department of Labor ~~and/or~~ the Director's~~his/her~~ designated representative.

"Employ" means to suffer or permit a nurse or certified nurse aide to work at a health care facility.

"Employee" means a nurse or certified nurse aide.

"Health care facility" is defined as in Section 3 of the Illinois Health Facilities Planning Act [20 ILCS 3960]. "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 [210 ILCS 9] or the Illinois Public Aid Code [305 ILCS 5].~~means a facility as defined in Section 3 of the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1153) and includes the following:~~

"Long-term basis" means the placement of a nurse or a certified nurse aide at a health care facility for an initial employment, assignment, or referral term of more than 24 continuous months by a nurse agency that incurs significant financial investment, to place the nurse or certified nurse aide at the health care facility, including one or more of the following expenses:

educational material expenses, if required;

expenses for credentialing, licensure, or certification; or

expenses for airline travel, lodging, meals, and ground transportation provided to a nurse or certified nurse aide.

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"Long-term basis" does not include the placement of a nurse or a certified nurse aide at a health care facility for an initial employment, assignment, or referral term of an undefined duration.

~~an ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act (Ill. Rev. Stat. 1989, ch. 111½, par. 157-8.1 et seq.);~~

~~an institution, place, building or agency required to be licensed pursuant to the Hospital Licensing Act (Ill. Rev. Stat. 1989, ch. 111½, par. 142 et seq.);~~

~~any institution required to be licensed pursuant to the Nursing Home Care Reform Act of 1979 (Ill. Rev. Stat. 1989, ch. 111½, par. 415-101 et seq.);
any kidney disease treatment center, including a free-standing hemodialysis unit;~~

~~any health maintenance organization required to be operated pursuant to the Health Maintenance Organization Act (Ill. Rev. Stat. 1989, ch. 111½, par. 1401 et seq.) and which is a qualified health maintenance organization under Section 1320(d) of the Public Health Services Act (42 U.S.C. 300e-9) or provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage; is compensated (except for co-payments) for the provision of the basic health care services listed in clause to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and provide physicians' services primarily directly through physicians who are either employees or partners of such organization, or through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis);~~

~~any hospital, nursing home, ambulatory surgical treatment center, kidney disease treatment center, or health maintenance organizations maintained by the State or any department or agency thereof, but not a federally owned facility.~~

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~~"Licensed practical nurse" means a person licensed under the Illinois Nursing Act of 1989 (Ill. Rev. Stat. 1989, ch. 111, par. 3501 et seq.) as a licensed practical nurse and practices practical nursing, which is the performance for compensation of acts in the care of the ill, injured, or infirmed, selected by and performed under the direction of a registered professional nurse, licensed physician, dentist, or podiatrist, requiring the basic nursing skill, judgment, and knowledge acquired by means of a completed course of study in an approved practical nursing education program.~~

~~"Licensee" means any nurse agency which is properly licensed under this Act.~~

"Manage" means to be in charge of the day-to-day~~day to day~~ operations of the nurse agency.

"Material amendment" means an amendment to any provision of a contract that is regulated or addressed by the Act or this Part.

~~"Nurse" means a registered nurse, ~~or~~ a licensed practical nurse, an advanced practice registered nurse, or any individual licensed under the Nurse Practice Act [225 ILCS 65] and performing work pursuant to the Nurse Practice Act, ~~as defined in the Illinois Nursing Act of 1989, as now or hereafter amended.~~~~

"Nurse ~~agency~~Agency" or "nurse staffing agency" means any individual, firm, corporation, partnership, or other legal entity, including a mobile application, web-based platform, or nurse registry, that employs, assigns, or refers nurses or certified nurse aides to a health care facility~~Health Care Facility~~ for a fee; or an entity that provides nurse or certified nurse aide staffing services. "Nurse agency" may include a managed service provider that employs, assigns or refers nurses or certified nurse aides to a health care facility for a fee. The presence or absence of any single activity by an entity is not dispositive in the Department's analysis of whether the entity is a nurse agency under the Act and this Part. The term "nurse agency", ~~but~~ does not include services provided by:

home health agencies licensed and operated under the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55](Ill. Rev. Stat. 1989, ch. 111½, par. 2801); ~~or~~

a licensed or certified individuals~~individual~~ who provide their~~provides his~~

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own services as an employee of a ~~to a~~ health care facility; ~~or~~

~~a subsidiary, division or other organizational entity or corporation that is wholly owned by a health care facility's coordination facility that provides the services of non-salaried~~ nonsalaried employees only in that health care facility; or:

an entity or corporation that provides ancillary administrative support services for nurse agencies or nurse staffing agencies, such as payroll processing or contract negotiation, but which does not employ, assign, or refer nurses or certified nurse aides.

"Refer" means to engage in activities intended to, or that have the effect of, directing or sending a nurse or certified nurse aide to perform specified duties at a health care facility. Such referral activities may include but are not limited to: connecting nurses or certified nurse aides with health care facilities for the purpose of providing temporary health care services; procuring staffing services for health care facilities by contracting with staffing agencies that employ and assign temporary workers; or using software tools designed to facilitate the management or procurement of staffing services.

"Shift" means a period of consecutive hours during which a nurse or certified nurse aide performs work at a health care facility.

~~"Registered nurse" means a person who is licensed as a professional nurse under the Illinois Nursing Act of 1987 and practices professional nursing, in all its specialties, which is the performance for compensation of any nursing act, in the nursing evaluation, observation, care and counsel of the ill, injured, or infirmed; in the maintenance of health or prevention of illness of others; the administration of medications and treatments as prescribed by a licensed physician, dentist, or podiatrist; or any act in the supervision or teaching of nursing, which requires substantial, specialized judgment and skill the proper performance of which is based on knowledge and application of the principles of biological, physical, and social science acquired by means of a completed course in an approved school of professional nursing, except those acts of medical diagnosis or prescription of therapeutic or corrective measures which are properly performed only by physicians licensed in the State of Illinois.~~

"Supervising ~~nurse~~ Nurse" means a registered nurse who is responsible for

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overseeing the assignment of nurses and certified nurse aides to a health care facility.

"Temporary basis" means an initial employment, assignment, or referral term of an undefined duration or a duration of 24 continuous months or less, exclusive of any extension.

"Transfer of ~~ownership~~**Ownership**" means a sale ~~and~~/or transfer of a majority interest in the ownership of a nurse agency.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.25 Illustrative Examples

The following examples provide guidance on whether an entity is acting as a nurse agency and is subject to the provisions of the Act and this Part. The examples are intended to illustrate some possible facts that the Department would consider relevant to this analysis and do not encompass all possible relevant facts or factual scenarios.

- a) Example A: A hospital contracts with Intermediary A for certain services. Per its contractual obligations, the hospital identifies its labor needs to Intermediary A. Intermediary A then engages several staffing agencies, including Staffing Agency, to source a pool of potential candidates for the hospital. Having received a pool of candidates from Staffing Agency, Intermediary A collects proof of the potential workers' credentials and background checks, consults with the hospital, and then provides the names of the selected workers to Staffing Agency for assignment to the hospital. Once workers are placed, Intermediary A tracks their hours worked. Then, Intermediary A bills the hospital according to their contractual agreement, and pays Staffing Agency according to their independent contractual agreement. Staffing Agency pays the workers for work performed at the hospital. Because Intermediary A actively facilitates the assignment, referral, and placement of nurses to the hospital through activities such as recruiting, collecting credentials, and conducting background checks, Intermediary A is considered a nurse agency under the Act and its contract with the hospital is subject to the Act and this Part. Because Staffing Agency employs the nurses and participates in supplying them to Intermediary A's client (the hospital), the Staffing Agency and its contract with Intermediary A are also subject to the Act and this Part.

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- b) Example B: Nurse Agency provides staffing services to several skilled care facilities. Nurse Agency identifies and recruits prospective nurses to provide to its skilled care facility clients, collects the prospective nurses' credentials, and conducts background checks. The skilled care facilities provide payment to Nurse Agency for nurses selected and placed at their facility. Nurse Agency separately contracts with Company B to provide Nurse Agency with payroll services. Company B tracks hours worked for the nurses placed by Nurse Agency and processes payments to the nurses on behalf of Nurse Agency. Because Nurse Agency identifies and places temporary nursing labor to the skilled care facilities, Nurse Agency is covered by the Act and its contracts with the skilled care facilities are subject to the Act and this Part. Because Company B provides only payroll services and is not involved in the identification, assignment, or referral of nurses, Company B is not considered a nurse agency and its contract with Nurse Agency is not subject to the Act or this Part.
- c) Example C: Nurse Agency B coordinates staffing for large long-term care facilities and is the exclusive provider to those facilities. Nurse Agency B recruits and identifies qualified certified nurse aides and employs them directly at these facilities. Nurse Agency B also contracts with Nurse Agencies C and D to identify nurse aides employed by Nurse Agencies C and D to provide supplemental nurse staffing to the facilities when necessary. The long-term care facilities provide payment to Nurse Agency B for all nurse aides referred through their agency. Nurse Agency B separately compensates Nurse Agencies C and D for those nurse aides that these agencies have identified and referred to Nurse Agency B for placement at the long-term care facilities. Because Nurse Agencies B, C, and D employ, assign, or refer temporary nursing labor at these long-term care facilities, they are subject to the Act. As such, the contracts between the facilities and Nurse Agency B are subject to the reporting requirements of the Act and this Part, as are the contracts for the provision of supplemental staffing services between Nurse Agencies B and C, and between Nurse Agencies B and D.
- d) Example D: Hospital E has a human resources department that recruits, interviews, and hires eligible health care workers, including nurses and certified nurse aides, to work as employees of Hospital E. Hospital E also contracts with a consultant who identifies and recruits nurses and certified nurse aides to become direct hire employees of Hospital E. These nurses and certified nurse aides are managed by fellow employees of Hospital E and are paid by Hospital E. Although Hospital E employs nurses and certified nurse aides, and its HR department verifies their credentials, and assigns them to certain departments within Hospital

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E, it is not acting as a nurse agency because it is not assigning them to work at a third-party health care facility for a fee. The contracted consultant, although it is earning a fee for recruitment, is not employing, assigning, or referring the nurses and certified nurse aides.

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 690.30 Licensure

- a) Regardless of whether its office is located~~No nurse agency, whether located~~ within or outside ~~the boundaries of the State of~~ Illinois, a nurse agency seeking to assign~~assigning~~ or refer~~referring~~ nurses or certified nurse aides to ~~Illinois~~ health care facilities in Illinois, shall not be established, operated, maintained, or advertised in the State of Illinois until such agency has been issued a license by the Department.
- b) A separate license must be issued for each location from which a nurse agency will be operated unless the nurse agency is owned and managed by the same~~A separate license must be issued for each location from which a nurse agency will be operated unless the nurse agency is owned and managed by the same~~ individual, firm, corporation, partnership, or other legal entity. [225 ILCS 510/5]
- c) An agency that is licensed as a home health care agency must also be licensed as a nurse agency if it is referring or assigning nurses or certified nurse aides to health care facilities unless the referral or assignment ~~or referral~~ is as a private duty nurse or certified nurse aide for the benefit of a particular individual with payment for the services made by, or on behalf of, that individual.
- d) An agency that is licensed as a private employment agency under the Private Employment Agency Act [225 ILCS 515] must also be licensed as a nurse agency if it refers nurses or certified nurse aides to health care facilities unless ~~that~~such referral is only for purposes of full-time~~full-time~~ employment by the health care facility.
- e) An agency that is registered under the Day and Temporary Labor Services Act must also be licensed as a nurse agency if the agency is in the business of assigning, referring, and employing nurses or certified nurse aides to health care facilities.

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- f) If an applicant's application is denied or withdrawn, or a nurse agency's license is revoked or suspended, the application fee shall not be refunded.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.40 Contents of Licensure Application

An application to operate a nurse agency shall be made on a form provided by the Department. Upon receipt of an application, the Department may request additional information as necessary to determine whether to issue the license. ~~The application and information submitted with an application are considered exempt from disclosure under Section 7(b)(iii) of the Freedom of Information Act (Ill. Rev. Stat. 1989, ch. 116, par. 207).~~ The application shall contain but is not limited to the following:

- a) Business leadership
- 1) The name, address, federal employer identification number, telephone number, and email address of the person seeking the license, including the trade or assumed name under which the person does business. If doing business under a trade or assumed name, the applicant shall include proof of compliance with the Assumed Business Name Act [805 ILCS 405].
 - 2) The name, address, federal employer identification number, telephone number, and email address of the registered agent for the place of business, including the position held by that person or entity with the person. Applications for registration renewal shall contain the name, address, federal employer identification number, email address, and telephone number of any new registered agent for the place of business, including the position held by that person or entity with the nurse agency;
- b) Business structure
- 1) If the person seeking a license 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 the names and addresses of shareholders owning more than 5% of the corporation's stock or membership units shall be provided for an initial license. Applications for license renewal shall contain any amendments to the articles of incorporation and bylaws.

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- 2) If the person seeking a license is a partnership: the names, business or personal addresses, and telephone numbers of all partners. Applications for registration renewal shall contain the names, business or personal addresses, and telephone numbers of all new partners;
- 3) If the person seeking a license is a limited liability company: a copy of the articles of organization, the operating agreement, and the names and addresses of all organizers and members owning more than 5% of the membership;

~~Name and address, of the person, partnership, corporation or other entity that is the prospective licensee;~~

- b) ~~If the prospective licensee is a corporation, a copy of its articles of incorporation, a copy of its current bylaws and the names and addresses of its officers and directors and the names and addresses of shareholders owning more than 5% of the corporation's stock shall be provided for an initial license. Applications for license renewal shall contain any amendments to the articles of incorporation and bylaws.~~
- c) The ~~names~~~~name~~ and ~~addresses~~~~locations~~ of all premises from which the nurse agency~~prospective licensee~~ will provide services, including information on whether the location is a residential address;
- d) The name and address of the person under whose management or supervision the nurse agency will be operated;
- e) Description of business activity;
- f) A statement of whether~~If~~ the ~~owner or operator~~~~applicant~~ has ever been convicted of a felony;
- g) The name of the supervising nurse ~~or supervising nurses~~, if not the same ~~as the~~ person identified under (d), who is responsible for management or supervision of the nurse agency;
- h) A ~~statement of financial solvency~~~~A statement of financial solvency~~ declaring:

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- 1) That the nurse agency~~Nurse Agency~~ or its owners have not been adjudged insolvent or bankrupt in a State or federal~~Federal~~ court; ~~and~~
- 2) That a court proceeding to make a judgment of bankruptcy or insolvency with respect to the nurse agency~~Nurse Agency~~ or its owners is not pending in a State or federal~~Federal~~ court; ~~and~~;
- 3) ~~That~~~~In addition~~, the nurse agency~~Nurse Agency~~ agrees to inform the Director ~~before any of Labor prior to a~~ court proceeding ~~that could~~to make ~~a~~ judgment of insolvency or bankruptcy ~~which will be instituted~~ with respect to the nurse agency~~Nurse Agency~~ or its owners;:-
 - h) *A statement detailing the experience and qualifications of the owner or operator~~prospective licensee~~ to operate a nurse agency;*
 - i) *An attestation that the nurse agency is in compliance with Evidence of compliance or intent to comply with State and federal laws~~or Federal law~~ relating to employee compensation ~~(Illinois Minimum Wage Law, Ill. Rev. Stat. 1989, ch. 48, par. 1001 et seq.), including but not limited to~~, social security taxes, State and federal~~Federal~~ income taxes, workers' compensation ~~(Workers' Compensation Law, Ill. Rev. Stat. 1989, ch. 48, par. 138 et seq.)~~, unemployment taxes ~~(Illinois Unemployment Insurance Act, (Ill. Rev. Stat. 1989, ch. 48, par. 300 et seq.), and State~~state ~~(Illinois Minimum Wage Law, Ill. Rev. Stat. 1989, ch. 48, par. 1001 et seq.)~~ and federal overtime compensation laws;:-*
 - kj) A certificate of insurance showing the nurse agency~~prospective licensee~~ has 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;
 - l) A certificate of insurance showing the nurse agency has workers' compensation insurance coverage for all nurses and certified nurse aides employed, assigned, or referred by the nurse agency to a health care facility;
 - m) Copies of all currently effective contracts with health care facilities employing, assigning, or referring nurses or certified nurse aides to those health care facilities, including any effective material amendments or modifications, all of which are exempt from disclosure under Section 7.5(ff) of the Freedom of Information Act [5 ILCS 140]; [225 ILCS 510/5]

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- n) Payment of an application fee made using the State Treasurer's E-Pay program or any successor program; and
- o) For a licensed nurse agency seeking a license renewal, a completed Shift Fulfillment Attestation Form detailing the total number of shifts contracted for, missed, and fulfilled in the 3 quarters preceding the application date in a format prescribed by the Department. [225 ILCS 510/7] This form can be found at <https://labor.illinois.gov/laws-rules/fls/nurse-agency-licensing-act.html>.
- k) ~~An application must be signed and notarized.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.50 Fee Schedule

- a) The application must be accompanied by a ~~\$1,000~~~~\$250.00~~ fee and a \$250 fee for each branch office or other location in Illinois from which the nurse agency operates. ~~This fee is subject to change through rulemaking.~~
- b) The fee shall be paid using the State Treasurer's E-Pay program or any successor program ~~by certified check, cashier's check or money order made payable to the Illinois Department of Labor.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.55 Reporting Requirements

A nurse agency shall comply with the following reporting requirements. In order to effectuate such compliance, it is the responsibility of the nurse agency to obtain all required documents from third parties with whom it may contract for payroll, timekeeping, human resources, or other relevant services.

- a) Contracts. A nurse agency must comply with the following contract maintenance and reporting requirements:
 - 1) A nurse agency shall submit to the Department all contracts for the employment, assignment, or referral of nurses or certified nurse aides within seven calendar days of the effective date of the contract. This requirement includes contracts executed or materially amended or

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modified on or after July 1, 2022 that govern the procurement of staffing services for health care facilities. Contracts must be submitted electronically in PDF format through the Department's online portal provided on the Nurse Agency Licensing Act webpage: <https://labor.illinois.gov/laws-rules/fls/nurse-agency-licensing-act.html>.

- 2) All contracts must conspicuously identify the name of the nurse agency and the name of the health care facility to which nurses or certified nurse aides are employed, assigned, or referred pursuant to the contract. The contract must include the effective date and termination date of the contract; if the contract has no termination date, it must include a clear statement of the time period covered by the contract term, including any auto-renewal date, which shall be considered an effective date. Contracts with auto-renewal provisions are deemed to begin a new contract term on the date of renewal.
- 3) A nurse agency must maintain all contracts under this Section in accordance with the maintenance period requirements of Section 690.150(c).
- b) Invoices. All original invoices must be maintained by the nurse agency in accordance with the maintenance period requirements of Section 690.150(c), and copies of such invoices must be submitted to the Department upon request.
- c) Quarterly Labor Cost Report. Each nurse agency must report the following data on a quarterly basis, in the following manner.
 - 1) Reporting Schedule.
 - A) Beginning on the effective date of this rulemaking, a nurse agency in operation on or before the effective date of this rulemaking must submit a quarterly report to the Department that covers all dates on which the nurse agency was in operation since the effective date of Public Act 102-946, July 1, 2022.
 - B) A nurse agency that begins operations after the effective date of this rulemaking must submit its first quarterly report by the due date immediately following its first full quarter in operation; such report shall encompass data going back to the nurse agency's first

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day in operation. For example, a nurse agency that opens for business on February 20 shall report to the Department for the first time on June 15, with data covering February 20 through May 31.

- C) After a nurse agency submits its initial report, the nurse agency shall follow the below quarterly reporting schedule. If the due date falls on a weekend or holiday on which the offices of the Department are closed, the report shall be due on the next working day:

<u>Reporting Period</u>	<u>Due Date</u>
<u>March 1-May 31</u>	<u>June 15</u>
<u>June 1-August 31</u>	<u>September 15</u>
<u>September 1-November 30</u>	<u>December 15</u>
<u>December 1-February 28</u>	<u>March 15</u>

- 2) Labor cost reports must be submitted electronically through the Department's online portal provided on the Nurse Agency Licensing Act webpage: <https://labor.illinois.gov/laws-rules/fls/nurse-agency-licensing-act.html>. Reports must be submitted in .csv file format and organized according to the template provided by the Department on the portal.

- 3) A nurse agency must submit a separate labor cost report for each health care facility with which the nurse agency has a current contract. Each report must identify the type of health care facility and must contain the following data regarding employees that have been assigned or referred to that health care facility, separated by employee category (i.e., registered nurse, licensed practical nurse, advanced practice registered nurse, and certified nurse aide):

- A) Amounts Charged to Facility: *the average amount charged to the health care facility for each individual employee category.*

- B) Wages Paid to Employees: *the average base hourly rate paid by the nurse agency to employees in each individual employee category.*

- C) Other Payments to Employees: *the average amount paid by the nurse agency to employees in each individual employee category*

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exclusive of the base hourly rate, such as per diems, overtime compensation, expense reimbursements, mileage, lodging, bonuses, and wage differentials.

- D) Labor-Related Costs: the average amount of labor-related costs paid by the nurse agency for each employee category, including payroll taxes, workers' compensation insurance, professional liability coverage, credentialing, and testing. [225 ILCS 510/14(h)]

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 690.60 Expiration and Renewal

- a) Each license shall be for a term of one year and shall expire one year from the date of issuance unless the Department revokes or suspends the license sooner or the nurse agency changes ownership. A period of suspension does not extend the license for any period of time.
- b) A nurse agency~~licensee~~ must apply for renewal *at least 90 days prior to the expiration of the nurse agency's current license.* [225 ILCS 510/7]

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.70 Standards For Nurse Agency Operation~~of an Agency~~

- a) *Each nurse agency~~licensee~~ shall have at least one supervising ~~a registered~~ nurse serving as manager or supervisor of all nurses and certified ~~nurse~~nurses aides at all times for the duration of its licensure.* [225 ILCS 510/14(b)]
- b) Each nurse agency~~licensee~~ shall develop and maintain written personnel policies and procedures with regard to its nurses and certified nurse aides. These policies ~~Policies~~ and procedures ~~Procedures~~ must be available for Department inspection upon request in each location from which a nurse~~an~~ agency operates, and must be submitted to the Department upon request ~~is operated~~. These policies and procedures must include the following ~~Minimum standards shall include, but are not limited to:~~
- 1) An in-person or videoconference interview of each nurse or certified nurse

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aide applying for employment, ~~an applicant~~ performed or supervised by a ~~registered~~ nurse;

- 2) Reference checks of each nurse or certified nurse aide applying for employment ~~an applicant~~:
 - A) Every nurse agency licensee shall check at least two recent references and dates of employment listed on the application unless the nurse or certified nurse aide applying for employment ~~applicant~~ has not had two previous employers;
 - B) Reference checks ~~Such verification~~ may be in writing, in person or by telephone. The nurse agency licensee shall keep a written record of ~~these~~ such reference checks in the personnel file for a period of two ~~(2)~~ calendar years;
- 3) A nurse agency shall ~~Licensee will~~ verify with the Department of Public Health or the Department of Financial and Professional Regulation (IDFPR), which may include using an IDFPR-approved third party verification resource, that each nurse or certified nurse aide applying for employment ~~applicant~~ is certified or licensed in the State of Illinois ~~registered~~ as attested to ~~stated~~ on the employment application;
- 4) An annual health examination, ~~which shall include a Mantoux tuberculosis test~~, to determine whether the nurse or certified nurse aide is free of communicable, contagious, or infectious diseases. ~~A physician or a RN shall administer and read the Mantoux tuberculosis test~~;
- 5) An annual performance evaluation of each nurse or certified nurse aide; such evaluation ~~must~~ shall be maintained in the nurse's or certified nurse aide's personnel file for a period of ~~three~~ 2 years;
- 6) Required current CPR certification; and
- 7) Orientation procedures.

c) Educational Requirements

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Nurse agencies shall verify that all nurses and certified nurse aides applying for employment have completed any continuing education requirements required by law for that individual's professional licensure or registration.

- d) Background Checks
Prior to employing, assigning, or referring a certified nurse aide to a position at a health care employer or long-term care facility as defined in the Health Care Worker Background Check Act [225 ILCS 46], the nurse agency shall review the information provided on the Health Care Worker Registry to verify that the certified nurse aide is not ineligible for the position pursuant to Section 25 of the Health Care Worker Background Check Act. Records of such background checks must be made available to the Department for inspection upon request.
- e) Covenants Not to Compete
- 1) Temporary placements
- A) Nurse agencies shall not enter into covenants not to compete with nurses or certified nurse aides if the nurse agency is employing, assigning, or referring the employee to a health care facility on a temporary basis.
- B) If a nurse or certified nurse aide and a nurse agency entered into a covenant not to compete on or after July 1, 2022, then the covenant is illegal and void if the nurse or certified nurse aide is employed, assigned, referred by a nurse agency to a health care facility on a temporary basis.
- 2) Long-term placements
- A) Nurse agencies may enter into covenants not to compete with nurses or certified nurse aides if the nurse agency is employing, assigning, or referring the employee to a health care facility on a long-term basis.
- B) If a nurse or certified nurse aide and a nurse agency, on a long-term basis, entered into a covenant not to compete on or before December 31, 2027 and the covenant expires after January 1, 2028, the covenant shall remain in effect until its expiration date if the

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term of the covenant runs concurrently with the employment contract.

- 3) In order to be enforceable, a covenant not to compete entered into in accordance with this Section must also comport with federal law, Illinois common law, and the Freedom to Work Act [820 ILCS 90].
- f) Minimum Personnel Policy Training
Nurse agencies shall disclose to all employees, upon hire and at least annually, information on the nurse agency's personnel policies and the requirements of the Act and this Part, including but not limited to the statutory restrictions on covenants not to compete and conversion fees, continuing education opportunities, and the responsibility to maintain an active health care license. Nurse agencies shall maintain records of such disclosures to each employee for the duration of that employee's employment and for at least three years after the employment ends.
- g) Responsibility for Compliance with Employment Requirements
For the purposes of the Act and this Part, nurses or certified nurse 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.
- h) Termination Only For Cause
Nurses or certified nurse aides employed, assigned, or referred to a health care facility by a nurse agency may only be terminated by the nurse agency for cause. [225 ILCS 510.13]
- i) Responsibility for Compliance
A nurse agency must ensure each nurse or certified nurse aide the nurse agency employs, assigns, or refers meets all the requirements of the Act and this Part.
- j) Dispatch Notice
- 1) A nurse agency shall provide at the time of dispatch, to each nurse or certified nurse aide who is sent to work for a health care facility, a written notice that contains the following information:
- A) the name of the nurse or certified nurse aide;

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- B) the name, address, and telephone number of the health care facility that the nurse or certified nurse aide is being dispatched to;
 - C) the name and title of the health care facility employee to whom the nurse or certified nurse aide is expected to report;
 - D) the rate of pay offered; and
 - E) the hours that the nurse or certified nurse aide is expected to work.
- 2) The notice provided by the nurse agency shall be certified and signed by an authorized agent of the nurse agency stating that the information contained in the statement is true and correct. The statement shall be provided to the nurse or certified nurse aide by hand, email, text message, or U.S. mail. If a nurse or certified nurse aide is assigned to the same assignment for more than one day, the nurse agency is only required to provide the dispatch notice on the first day of the assignment and on any day that any of the terms listed on the dispatch notice are changed.
- 3) An agency that is required to register under both the Illinois Day and Temporary Labor Services Act and the Nurse Agency Licensing Act, and provides a dispatch notice under the Illinois Day and Temporary Labor Services Act, is not required to provide a separate dispatch notice under this Section.
- k) Wage Payment Notice
- 1) At the time of payment of wages, a nurse agency shall provide the following information on the nurse or certified nurse aide's paycheck or pay stub, or on a form approved by the Department:
- A) the name, address, and telephone number of each health care facility at which the nurse or certified nurse aide worked;
 - B) the number of hours worked by the nurse or certified nurse aide at each health care facility each day during the pay period;

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- C) the rate of payment for each hour worked, including any premium rate or bonus; and
 - D) the total pay period earnings.
- 2) An agency that is required to register under both the Illinois Day and Temporary Labor Services Act and the Nurse Agency Licensing Act, and provides a wage payment notice under the Illinois Day and Temporary Labor Services Act, is not required to provide a separate wage payment notice under this Section.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.80 Application for Employment, Assignment, or Referral

A nurse agency~~Each licensee~~ shall require each nurse or certified nurse aide applying for employment~~an applicant~~ to complete in writing an application. Each application shall contain, but is not limited to, the following~~form which contains, but is not limited to the following:~~

- a) Name and address of the nurse or certified nurse aide~~applicant~~ with verification of the nurse's or certified nurse aide's~~applicant's~~ identity by means of a valid driver's license, state~~Secretary of State's~~ identification card, passport, or other appropriate government-issued photo identification~~which includes a photograph of the applicant;~~
- b) For nurses, written attestation that the nurse holds a license issued by~~Written verification from~~ the Illinois Department of Financial and Professional Regulation, including an attestation of~~indicating~~ the license held by the nurse and the nurse's licensure status~~of a RN or LPN;~~
- c) For certified nurse aides, written attestation that the certified nurse aide is certified by~~Written verification from~~ the Illinois Department of Public Health and that the certified nurse aide~~a CNA~~ has been registered as having completed a course that~~which~~ has been certified by that agency;
- d) Dates employed, employer name, and contact information for~~places of~~ the nurse's or certified nurse aide's most recent previous employment references, if applicable;

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- e) ~~An attestation~~A statement completed within the last ~~twelve~~ (12) months, stating that the nurse or certified nurse aide~~that the applicant:~~
- ~~1)~~ has been administered the Mantoux tuberculosis test by a physician or a RN. The date the test results were read shall be indicated in writing on the application form;
 - ~~12)~~ has completed a CPR training course provided by the American Red Cross or its equivalent. The nurse's or certified nurse aide's date of CPR certification shall be indicated in writing on the application form, and the nurse or certified nurse aide shall maintain a copy of their current CPR certificate; and
 - ~~23)~~ has completed a skill inventory and listed clinical areas of competence.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.90 Prerequisites for Employment, Assignment, or Referral

- a) Prior to employment, assignment, or referral of a nurse or certified nurse aide, a nurse agency~~Every licensee~~ shall verify:
- 1) for a nurse, with the Illinois Department of Financial and Professional Regulation, which may include using an IDFPD-approved third party verification resource, that the nurse is licensed in the State of Illinois~~each applicant RN or LPN holds a valid license;~~ and
 - 2) for a certified nurse aide, with the Illinois Department of Public Health that the certified nurse aide~~each applicant CNA~~ has completed all certification requirements and has been certified by the State of Illinois. (77 Ill. Adm. Code ~~U.C.~~ 395);
- b) No nurse agency~~licensee~~ shall employ, assign, or refer any nurse or certified nurse aide~~applicant~~ until the nurse agency~~licensee~~ has checked the nurse's or certified nurse aide's~~applicant's~~ references.
- e) ~~A licensee may conditionally employ, assign, or refer a RN or LPN if the licensee has requested such verification (see subsection (a)(1)) of the current license of an applicant RN and LPN in writing from the Department of Professional~~

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~~Regulation; a licensee may conditionally employ, assign, or refer an applicant CNA if the licensee has requested such verification (see subsection (a)(2)) in writing from the Department of Public Health that the applicant is registered as having completed a course as approved by the Department of Public Health (77 Ill. Adm. Code U.C. 395). The length of conditional employment, referral, or assignment of the applicant is subject to approval by the Department of Labor if written verification has not been received by the Nurse Agency within 20 working days. The length of conditional employment shall be extended to more than 20 working days only if the delay in response from the Department of Professional Regulation or the Department of Public Health was as a result of a staffing problem or clerical error.~~

- ~~c~~d) No nurse agency shall assign or refer a nurse or certified nurse aide~~an applicant~~ to a health care facility unless the health care facility has disclosed~~provided~~ the clinical area of skills required for job assignment.
- d) No nurse agency shall assign or refer a nurse or certified nurse aide who has not satisfied the application requirements in Section 690.80 or who is ineligible for the position as provided for in Section 690.70(d).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.100 Continuing Verifications

- a) ~~The nurse agency~~Monthly, the Nurse Agency shall review the disciplinary report published by the Illinois Department of Financial and Professional Regulation on a monthly basis to determine whether any nurse it employs, assigns or refers has had their~~his/her~~ license suspended or revoked.
- b) When a nurse~~RN or LPN~~ is found to be on the disciplinary report, the nurse agency shall determine if the nurse's~~RN or LPN has had his/her~~ practice has been limited or~~and/or~~ conditioned. It shall be the responsibility of the nurse agency to advise the health care facility in writing of the limitation and/or condition.
- c) ~~The~~When established, the nurse agency shall ~~monthly~~ review the Healthcare Worker Registry maintained by~~abuse report published by~~ the Illinois Department of Public Health on a monthly basis to determine whether any certified nurse aide employed by the nurse agency is no longer eligible for employment~~CNA it employs has appeared on the report.~~

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- ~~d~~e) ~~Prior to referral~~After July 1 of every even numbered year, the nurse agency shall verify, ~~in writing, with the Department of Professional Regulation~~ that a ~~nurse~~RN continues to hold a valid, unencumbered license ~~issued by the Illinois Department of Financial and Professional Regulation.~~ ~~Such verification shall be in writing.~~
- ~~d~~) ~~After April 1 of every odd numbered year, the nurse agency shall verify with the Department of Professional Regulation that a LPN continues to hold a valid, unencumbered license.~~ ~~Such verification shall be in writing.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.110 Evaluation Forms

~~a~~) Nurse agencies must conduct an annual evaluation of each employee, which may be based in part upon information provided by health care facilities utilizing nurse agency personnel. [225 ILCS 510/14(a)(3)] Evaluations must be maintained for at least three years and provided to the Department upon request. ~~After first shift, licensee shall mail to the health care facility a form on which the applicant may be evaluated for:~~

- ~~1) applicant's qualifications to perform job for which referred.~~
 - ~~2) performance of applicant.~~
- ~~b~~) ~~Licensee shall complete an annual performance evaluation of applicant. Information provided by the health care facility may be used for this purpose.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.120 Prohibition on Recruitment as a Condition ~~Conditions~~ of Employment, ~~Assignment and Referral~~

- a) No nurse agency~~licensee~~ shall require, as a condition of employment, assignment or referral, that any nurse ~~or~~and certified nurse aide recruit nurses or certified nurse aides for the nurse agency~~licensee~~ from among the permanent employees of the health care facility to which the nurse agency's~~licensee's~~ nurses or certified nurse aides have been assigned or referred.
- b) Health care facilities are *prohibited from requiring, as a condition of employment,*

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that their employees recruit new employees from these nurse agency employees.
[\[225 ILCS 510/40\(f\)\]](#)

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.130 Reporting Changes in Management and Stockholders

- a) Each [nurse agency licensee](#) shall report in writing to the Department within ~~thirty (30 calendar) business~~ days any changes in personnel who manage or supervise [nurses RN's, LPN's or certified nurse aides CNA's](#). [At no time shall a nurse agency be without at least one supervising nurse serving as manager or supervisor of all nurses and certified nurse aides.](#)
- b) Each [nurse agency that licensee which](#) is a corporation [or limited liability company](#) shall report [to the Department](#) in writing within 30 [calendar](#) days any changes in the list of stockholders who own more than 5% of its stock [or membership units](#).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.140 Transfer of Ownership

- a) Each [nurse agency licensee](#) whose ownership is to be ~~transferred~~ shall report in writing to the Department the name of the transferee and the anticipated date of the transfer.
- b) The anticipated transferee shall apply for a license at least 45 [calendar](#) days before the anticipated [date of the](#) transfer.
- c) The Department may issue a license to a transferee to become effective on the date of the transfer, and the transferor's license will become void on the date the transferee's license becomes effective. The transferor shall notify the Department in writing the day the transfer is effected.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.150 Inspections and Records

- a) The Director shall have the right to ~~survey~~ ~~make surveys~~ and ~~inspect~~ ~~inspections of~~

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the facilities and records of any nurse agency licensee as may be necessary in order to determine the status of the nurse agency's compliance with the Act and this Part.

- b) All records relating to a nurse's or certified nurse aide's employment, including all personnel records and records of~~All applications for employment,~~ assignment and, ~~or~~ referral, including required notices to nurses and certified nurse aides, shall be kept on the premises of the nurse agency licensee and shall be open to inspection during regular business hours by the Department.
- c) A nurse agency must comply with the following record maintenance requirements:
- 1) All contracts entered into or materially amended or modified on or after July 1, 2022 must be maintained for a minimum of three years after their expiration.
 - 2) Original invoices must be maintained for a minimum of three years.
 - 3) Nurse and certified nurse aide personnel records and evaluations must be maintained for a minimum of three years.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.160 Complaints and Investigations

- a) ~~The~~Upon complaint, the Department shall accept complaints from any interested person regarding alleged violations of the Act or this Part by a nurse agency~~investigate an applicant or licensee.~~ Complaints~~Such complaint~~ may be filed by any interested person on a form provided by the Department at <https://labor.illinois.gov/laws-rules/fls/nurse-agency-licensing-act.html>~~or health facility or other nurse agency and may be in writing, in person or by telephone.~~ ~~Any complaint made in person or by telephone must also be made in writing.~~ The Department shall review all complaints and determine whether a reasonable basis exists to initiate an investigation. The Department may initiate~~institute~~ an investigation, with or without having received a complaint,~~based on a nonwritten complaint~~ if the Director reasonably believes~~Department determines~~ that a nurse agency may be in violation of the Act~~the public interest, safety or welfare is at risk.~~

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- b) The Department shall notify the applicant or licensee in writing of the investigation and may require that the nurse agency provide information in response to the Department's inquiry. Upon receipt of a notice of investigation, the nurse agency shall respond to the Department and provide comments, relevant information, or other evidence to support the nurse agency's response to the claim. The Department may issue subpoenas in the course of an investigation as provided for in Section 690.220. ~~complaint and the applicant or licensee may submit comments and information.~~
- c) The Department will review the information provided by the parties to determine if a violation of the Act or this Part occurred. If the Department determines that a violation has occurred, then the Department may suspend or revoke a license under Sections 690.180 and issue a fine under Section 690.210.
- d) The Department may dismiss for lack of cause or assess penalties in accordance with Section 690.210.
- ee) The ~~names~~name of persons who file complaints under this Section are considered confidential and are exempt from disclosure under section 7(1)(b)(~~iii~~) of the Freedom of Information Act [5 ILCS 140](~~Ill. Rev. Stat. 1989, ch. 116, par. 207~~).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.170 Denial of Initial License or License Renewal

A license application may~~shall~~ be denied for any of, but not limited to, the following reasons:

- a) failure to comply with the minimum standards set forth by the Act or Section 690.70;
- b) a felony conviction of the owner or operator of the nurse agency~~prospective licensee~~;
- c) failure to provide an accurate statement of financial solvency (see Section 690.40(g));
- d) failure to establish personnel policies and procedures as required by the Act and this Part~~for selecting nurses and certified nurse aides for employment~~;

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~~assignment or referral.~~

- e) failure to complete the application in full;
- f) submission of false or misleading information to the Department;
- g) for any violations of provisions of the Act or of this Part, if the applicant has previously held a license under this Act; or
- h) for refusal to comply with enforcement provisions of the Act or this Part, such as refusal to pay a fine, if the applicant has previously held a license under this Act.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.180 Suspension~~Denial of Renewal~~ or Revocation of License

- a) ~~An application for a renewal of a license shall be denied for, but not limited to:~~
 - 1) ~~any of the reasons for denial of the original license listed in Section 690.170;~~
 - 2) ~~for any violations of provisions of the Act or of this Part;~~
 - 3) ~~for refusal to pay a fine.~~
- ab) A license shall be suspended or revoked for, ~~but not limited to,~~ any of the following reasons:
 - 1) for any of the reasons for which a license may be denied as listed in Section 690.170;
 - 2) for violations of provisions of the Act or of this Part;
 - 3) for willful non-payment of~~refusal to pay~~ a fine; or
 - 4) for any conduct or practice found, after an~~as a result of an~~ administrative hearing, to be detrimental to the public's right to high quality health care.

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- b) The Department may not suspend or revoke a license without appropriate notice and hearing pursuant to Section 690.190 and 56 Ill. Adm. Code 120. [225 ILCS 510/9]
- c) When determining whether to suspend or revoke a nurse agency's license, the Director shall consider the factors found in Section 690.200.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.190 Hearings

- a) A hearing shall be initiated upon the request of a nurse agency after the nurse agency has received a written decision of a revocation or suspension of a license or an imposition of a fine. The request must be made in writing and sent by electronic mail to the Department at DOL.Hearings@illinois.gov within 14 calendar days after receipt of the written decision.~~Before denying any application or refusing to renew a license, revoking or suspending a license, or imposing a fine, the Department shall notify the applicant or licensee in writing by certified mail, setting forth the particular reason for the proposed action and fixing a date, not less than 14 days from the date of such mailing, at which time the applicant or licensee shall be given an opportunity for a hearing.~~
- b) Hearings conducted under this Part are formal in nature and subject to the Departmental hearing rules at 56 Ill. Adm. Code 120.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.200 Considerations in Reaching a Decision

In determining whether to revoke, suspend, deny an application for,~~refuse to issue~~ or refuse to renew a license subsequent to a violation,~~or to impose a fine and the amount of the fine~~ the Director shall consider:

- a) Whether the violation~~finding~~ constitutes a technical error;
- b) The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation, including probability that death or serious physical or mental harm to any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or

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~~regulations were violated; Whether the finding is serious enough to constitute an actual violation of the intent and purpose of a particular provision of the Act or this Part;~~

- c) Whether the violation could pose any direct or potential harm to a patient in a health care facility or to an employee of the nurse agency;
- d) Whether the nurse agency applicant or licensee has taken steps to correct the noted violation~~violations; and~~
- e) Whether the same violation or similar violations relating to the same conditions or occurrences have been documented~~included in previous reports~~ and the nurse agency licensee has allowed the condition or occurrence to continue or to recur~~;~~:-
- f) The economic harm to the employee caused by the violation;
- g) The history of previous violations;
- h) The action necessary to deter a future violation; and
- i) Any other matter that justice may require.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.210 Fines

- a) ~~The Director may impose a fine not to exceed \$1000 for operating a nurse agency without a license; referring or assigning a person who does not hold a currently valid license as a nurse issued by the Department of Professional Regulation, or is not registered with the Department of Public Health as a certified nurse aide; or for failure to have and maintain sufficient liability insurance.~~
- ab) The Director shall~~may~~ impose a fine of \$500~~a fine not to exceed \$500~~ for submission of false, misleading information.~~submission of false or misleading information, or a fine not to exceed \$300 for the failure to provide or maintain information in accordance with the Act or this Part.~~
- be) The Director shall~~may~~ impose a fine of \$10,000~~not to exceed \$500~~ for violation of any other provision~~Section~~ of the Act or this Part.

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- ~~c~~d) A fine may be imposed in addition to a suspension, a revocation, or refusal to renew a license.
- d) Fines imposed under the Act or this Part shall be paid via the State Treasurer's E-Pay program or any successor program and shall be payable to the Department for the purposes of enforcing the Act.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.220 Subpoena

The Director shall, upon the Director's~~his/her~~ own motion or on the written request of any party to a proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records, or memoranda.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.230 Determination

Any determination based on investigation by the Illinois Department of Labor shall be considered a contested case subject to the Illinois Administrative Procedure Act [5 ILCS 100] (~~Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.~~) and the final decision shall~~will~~ be in writing.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 690.240 Administrative Review

A final~~The~~ decision under Section 690.230 may be reviewed under the Administrative Review Law [735 ILCS 5/Art.III] (~~Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.~~).

(Source: Amended at 48 Ill. Reg. _____, effective _____)