



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5320

Introduced 2/9/2024, by Rep. Kam Buckner

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Hospital Licensing Act. Provides that "hospital worker" means any person who receives an hourly wage directly or indirectly via a subcontractor by a hospital licensed under the Act. Replaces references to "nurse" with "hospital worker". Provides for additional staffing transparency and reporting requirements. Provides that hospitals licensed under the Act must employ and schedule enough hospital workers to provide quality patient care and ensure patient safety. Provides that hospitals must make available, at the beginning of each calendar year and upon request, all staffing matrices and other staffing metrics, if any, used to assess and maintain safe staffing levels for hospital workers in each unit. Provides that the Department of Public Health shall produce an annual report based on staffing disclosures. Provides that the Department shall make recommendations for minimum staffing standards for hospital workers in each hospital unit. Provides that hospitals licensed under the Act shall conduct, within the first month of employment and at no cost, a competency validation for each hospital worker hired. Provides that a hospital must submit documentation of each hospital worker's competency validation to the Department within 4 weeks after the worker's start date. Provides that hospitals shall conduct ongoing verification for each hospital worker employed during a given calendar year to determine each worker's continued competency to perform the worker's job and shall submit documentation of each worker's ongoing verification to the Department within 2 weeks of completion. Provides that hospitals shall submit a list of all competent employees currently employed at the end of each calendar year. Provides for a public registry of all competent employees to be maintained by the Department. Provides for the imposition of civil penalties for specified violations of the Act. Describes an assignment despite objection resolution process to be implemented by each hospital that is licensed under the Act. Provides for a Hospital Safety Advocate role to be created within the Department.

LRB103 37477 CES 67600 b

A BILL FOR

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 Hospital Licensing Act is amended by  
5 changing Section 10.9 and by adding Sections 10.15 and 10.20  
6 as follows:

7 (210 ILCS 85/10.9)

8 Sec. 10.9. Hospital worker ~~Nurse~~ mandated overtime  
9 prohibited.

10 (a) Definitions. As used in this Section:

11 "Mandated overtime" means work that is required by the  
12 hospital in excess of an agreed-to, predetermined work shift.  
13 Time spent by nurses required to be available as a condition of  
14 employment in specialized units, such as surgical nursing  
15 services, shall not be counted or considered in calculating  
16 the amount of time worked for the purpose of applying the  
17 prohibition against mandated overtime under subsection (b).

18 "Hospital worker" means any person who receives an hourly  
19 wage, directly or indirectly, via a subcontractor by a  
20 hospital licensed under this Act.

21 ~~"Nurse" means any advanced practice registered nurse,~~  
22 ~~registered professional nurse, or licensed practical nurse, as~~  
23 ~~defined in the Nurse Practice Act, who receives an hourly wage~~

1 ~~and has direct responsibility to oversee or carry out nursing~~  
2 ~~care. For the purposes of this Section, "advanced practice~~  
3 ~~registered nurse" does not include a certified registered~~  
4 ~~nurse anesthetist who is primarily engaged in performing the~~  
5 ~~duties of a nurse anesthetist.~~

6 "Related to the subcontractor" means that the  
7 subcontractor is, to a significant extent, associated or  
8 affiliated with, owns, or is owned by, or has control of or is  
9 controlled by, the organization furnishing services to a  
10 hospital licensed under this Act.

11 "Subcontractor" means any entity, including an individual  
12 or individuals, that contracts with a hospital licensed under  
13 this Act to supply a service. "Subcontractor" includes  
14 organizations related to the subcontractor that have a  
15 contract with the subcontractor.

16 "Unforeseen emergent circumstance" means (i) any declared  
17 national, State, or municipal disaster or other catastrophic  
18 event, or any implementation of a hospital's disaster plan,  
19 that will substantially affect or increase the need for health  
20 care services or (ii) any circumstance in which patient care  
21 needs require specialized nursing skills through the  
22 completion of a procedure. An "unforeseen emergent  
23 circumstance" does not include situations in which the  
24 hospital fails to have enough ~~nursing~~ staff to meet the usual  
25 and reasonably predictable patient care ~~nursing~~ needs of its  
26 patients.

1 (b) Mandated overtime prohibited. No hospital worker nurse  
2 may be required to work mandated overtime except in the case of  
3 an unforeseen emergent circumstance when such overtime is  
4 required only as a last resort. Such mandated overtime shall  
5 not exceed 4 hours beyond an agreed-to, predetermined work  
6 shift.

7 (c) Rest period required ~~Off-duty period~~. When a hospital  
8 worker nurse is mandated to work up to 12 consecutive hours,  
9 the worker nurse must be allowed at least 8 consecutive hours  
10 of ~~off-duty~~ time off immediately following the completion of a  
11 shift.

12 (d) Retaliation prohibited. No hospital may discipline,  
13 discharge, or take any other adverse employment action against  
14 a hospital worker nurse solely because the worker nurse  
15 refused to work mandated overtime as prohibited under  
16 subsection (b).

17 (e) Violations. Any employee of a hospital that is subject  
18 to this Act may file a complaint with the Department of Public  
19 Health regarding an alleged violation of this Section. The  
20 complaint must be filed within 45 days following the  
21 occurrence of the incident giving rise to the alleged  
22 violation. The Department must forward notification of the  
23 alleged violation to the hospital in question within 3  
24 business days after the complaint is filed. Upon receiving a  
25 complaint of a violation of this Section, the Department may  
26 take any action authorized under Section 7 or 9 of this Act.

1 (f) Proof of violation. Any violation of this Section must  
2 be proved by clear and convincing evidence that a hospital  
3 worker ~~nurse~~ was required to work overtime against the  
4 worker's ~~his or her~~ will. The hospital may defeat the claim of  
5 a violation by presenting clear and convincing evidence that  
6 an unforeseen emergent circumstance, which required overtime  
7 work, existed at the time the employee was required or  
8 compelled to work.

9 (Source: P.A. 100-513, eff. 1-1-18.)

10 (210 ILCS 85/10.15 new)

11 Sec. 10.15. Additional staffing transparency and reporting  
12 requirements.

13 (a) As used in this Section:

14 "Hospital worker" means any person who receives an hourly  
15 wage, directly or indirectly, via a subcontractor by a  
16 hospital licensed under this Act.

17 "Related to the subcontractor" means that the  
18 subcontractor is, to a significant extent, associated or  
19 affiliated with, owns, or is owned by, or has control of or is  
20 controlled by, the organization furnishing services to a  
21 hospital licensed under this Act.

22 "Staffing metric" means any tool used by hospital  
23 management to determine safe staffing levels in a patient care  
24 or support services unit.

25 "Subcontractor" means any entity, including an individual

1 or individuals, that contracts with a hospital licensed under  
2 this Act to supply a service. This includes organizations  
3 related to the subcontractor that have a contract with the  
4 subcontractor.

5 "Unit" means a functional division of a hospital that  
6 provides patient care or support services.

7 (b) Hospitals licensed under this Act must employ and  
8 schedule enough hospital workers to provide quality patient  
9 care and ensure patient safety.

10 (c) In order to ensure compliance with safe staffing  
11 practices, hospitals licensed under this Act shall make  
12 available, upon request, all the staffing matrices and other  
13 staffing metrics, if any, used to assess and maintain safe  
14 staffing levels for hospital workers in each unit.

15 (d) Hospitals shall share any and all staffing matrices,  
16 staffing metrics, and underlying materials used to determine  
17 staffing levels with the Department at the beginning of each  
18 calendar year.

19 (e) The Department shall produce an annual report based on  
20 staffing disclosures required under this Section beginning the  
21 first year after implementation.

22 (f) The Department shall make recommendations for minimum  
23 staffing standards for hospital workers in each hospital unit  
24 based on the information collected under this Section.

1       Sec. 10.20. Hospital worker competency validation and  
2 assignment despite objection process.

3       (a) Findings. The Legislature finds and declares all of  
4 the following:

5           (1) The State of Illinois has an obligation to ensure  
6 hospitals provide quality patient care.

7           (2) Numerous studies have linked patient outcomes,  
8 including in-hospital mortality rates, to hospital worker  
9 staffing.

10          (3) In spite of the preponderance of evidence that  
11 adequate staffing improves patient outcomes, hospitals in  
12 Illinois and elsewhere too often systemically and  
13 intentionally understaff to maximize profit even at the  
14 expense of quality patient care.

15          (4) The COVID-19 pandemic both exposed and exacerbated  
16 these unsafe staffing practices.

17          (5) The State asserts that based on their demonstrated  
18 competencies and training, hospital workers themselves are  
19 best positioned to identify unsafe conditions that  
20 jeopardize quality patient care, including, especially,  
21 short staffing.

22          (6) Hospitals perform competency validations and  
23 ongoing verifications to ensure workers know how to  
24 perform their jobs safely and to identify unsafe practices  
25 including short staffing.

26          (7) The State should require hospitals to affirm that

1 hospital workers have received the necessary training to  
2 safely perform their work via competency validations and  
3 ongoing verification and empower these workers to identify  
4 and formally object to unsafe working conditions,  
5 including short staffing.

6 (8) To facilitate this, the State should create a  
7 dispute resolution process for hospital workers to  
8 formally object to unsafe working conditions.

9 (b) Definitions. As used in this Section:

10 "Assignment despite objection" means a formal process by  
11 which hospital workers notify management when they receive an  
12 assignment that, based on their training, is potentially  
13 unsafe.

14 "Competent employee" means a hospital worker whose  
15 employer has received a competency validation or ongoing  
16 verification during a given calendar year.

17 "Competency validation" means a determination based on a  
18 hospital worker's satisfactory performance of each specific  
19 element of the employee's job description and of specific  
20 requirements of the unit in which they are employed in a safe  
21 and ethical manner.

22 "Hospital worker" means any person who receives an hourly  
23 wage, directly or indirectly, via a subcontractor by a  
24 hospital licensed under this Act.

25 "Ongoing verification" means annual redetermination based  
26 on a hospital worker's satisfactory performance of each



1 specific element of the hospital worker's job description and  
2 the specific requirements of the unit in which the worker is  
3 employed in a safe and ethical manner.

4 "Related to the subcontractor" means that the  
5 subcontractor is, to a significant extent, associated or  
6 affiliated with, owns, or is owned by, or has control of or is  
7 controlled by, the organization furnishing services to a  
8 hospital licensed under this Act.

9 "Subcontractor" means any entity, including an individual  
10 or individuals, that contracts with a hospital licensed under  
11 this Act to supply a service. "Subcontractor" includes  
12 organizations related to the subcontractor that have a  
13 contract with the subcontractor.

14 (c) Competency Validation Credential.

15 (1) Hospitals licensed under this Act shall conduct a  
16 competency validation for each hospital worker hired as a  
17 condition of employment within the first month after  
18 employment and at no cost to the new hire.

19 (2) The competency validation formally affirms the  
20 hospital has adequately trained a hospital worker to  
21 perform all aspects of the hospital worker's job safely  
22 and to identify unsafe conditions, including inadequate  
23 staffing.

24 (3) Hospitals must submit documentation of each  
25 hospital worker's competency validation to the Department  
26 of Public Health within 4 weeks after the worker's start

1 date.

2 (4) Hospitals licensed under this Act shall also  
3 conduct an ongoing verification for each hospital worker  
4 employed during a given calendar year to determine the  
5 continued competency of each hospital worker to perform  
6 the worker's job and shall submit documentation of ongoing  
7 verification of each hospital worker to the Department of  
8 Public Health within 2 weeks after completion.

9 (5) Hospitals licensed under this Act shall submit a  
10 list of all competent employees currently employed at the  
11 end of each calendar year.

12 (6) The Department shall maintain a registry of all  
13 competent employees that includes the name, address,  
14 contact information and current employer of the worker and  
15 make this registry available to the public.

16 (7) Following notice and an opportunity to be heard,  
17 the Department shall impose, for each day that a hospital  
18 licensed under this Act is in violation of this subsection  
19 (c), a civil penalty against the hospital in an amount  
20 equal to 0.1% of the hospital's annual revenue during the  
21 most recently completed fiscal year.

22 (d) Assignment despite objection.

23 (1) A hospital licensed under this Act must create an  
24 assignment despite objection form that is applicable and  
25 accessible to all of its hospital workers that enables the  
26 hospital workers to formally object to unsafe working

1 conditions, including unsafe staffing levels, and that  
2 assigns to the hospital liability for requiring a hospital  
3 worker to work in an unsafe manner.

4 (2) The assignment despite objection form must include  
5 the following language: "This is to confirm that I  
6 notified you that, in my professional judgment derived  
7 from my competency validation, today's assignment is  
8 unsafe and places patients at risk. As a result, the  
9 facility is responsible for any adverse effects on patient  
10 care."

11 (3) The hospital must retain a copy of each assignment  
12 despite objection form and provide a copy to the hospital  
13 worker's union, if any, and the Department. Hospitals must  
14 provide, at the end of each calendar year, a report of all  
15 assignment despite objection forms filed during the  
16 calendar year and must maintain these records for a  
17 minimum of 5 years.

18 (4) Hospitals must not retaliate against hospital  
19 workers for filing an assignment despite objection form or  
20 otherwise reporting or objecting to unsafe conditions.

21 (e) Resolution Process.

22 (1) Hospitals must develop a transparent, fair, and  
23 expedient assignment despite objection resolution process  
24 for all hospital workers either via collective bargaining  
25 or in accordance with Department process articulated  
26 below.

1           (2) Hospital workers currently covered by a collective  
2           bargaining agreement that includes an assignment despite  
3           objection resolution process shall abide by the process  
4           included in the collective bargaining agreement.

5           (3) Hospital workers not covered by a collective  
6           bargaining agreement that includes an assignment despite  
7           objection resolution process may access the following  
8           Department mandated assignment despite objection  
9           resolution process:

10           (A) The objecting hospital worker shall make a  
11           good faith effort to inform the hospital worker's  
12           manager or supervisor at the time of the objection to  
13           assignment.

14           (B) If the manager or supervisor fails to resolve  
15           the unsafe situation to the reporting hospital  
16           worker's satisfaction, the hospital worker shall then  
17           complete an assignment despite objection form, shall  
18           submit a copy to that person's manager or supervisor  
19           and that person's representative organization, if  
20           covered by a collective bargaining agreement, and  
21           shall keep a copy for their records.

22           (C) Hospital management must respond in writing to  
23           the assignment despite objection form within one week  
24           after its receipt and shall provide a copy of the  
25           response to the hospital worker's representative  
26           organization, if the hospital worker is covered by a

1           collective bargaining agreement.

2           (D) In any instance in which the affected hospital  
3 worker(s) is unsatisfied with management's response,  
4 the hospital must convene a Safety Review Panel  
5 composed of 3 representatives selected by the hospital  
6 and 3 representatives selected by hospital workers via  
7 a transparent democratic process. The representatives  
8 selected by hospital workers are not required to be  
9 hospital employees. The panel shall attempt to resolve  
10 the dispute within 15 days of referral, unless  
11 extended by mutual consent.

12           (E) If the Safety Review Panel cannot resolve the  
13 dispute within 15 days after referral, the Department  
14 shall appoint a mutually agreed upon neutral  
15 third-party to assist in resolving the dispute. The  
16 neutral third-party shall make a binding decision to  
17 resolve the dispute.

18           (4) Following notice and an opportunity to be heard,  
19 the Department shall impose, for each day that a hospital  
20 licensed under this Act is in violation of subsection (d)  
21 or this subsection, a civil penalty against the hospital  
22 in an amount equal to 0.1% of the hospital's annual  
23 revenue during the most recently completed fiscal year.

24           (5) The Department shall create a Hospital Safety  
25 Advocate position responsible for enforcing the new  
26 competency credentialing and assignment despite objection

1 requirements and developing additional rules, as needed.

1 INDEX

2 Statutes amended in order of appearance

3 210 ILCS 85/10.9

4 210 ILCS 85/10.15 new

5 210 ILCS 85/10.20 new