

# Staffing Agency Contracts



**SITUATION:** During workforce shortages, it can be difficult for health care organizations to meet their staffing needs, both professional and non-professional. Organizations often address shortages by using staffing agencies. Risk professionals may be asked to review agency staffing contracts for potential risk to their organization. A knowledge of the key components of such contracts is important in identifying potential issues and ensuring that the risk assumed is reasonable and can be managed by the organization.



**BACKGROUND:** Nursing vacancies are particularly high, driven in part by retirements and burnout. Nurse staffing agencies offer a flexible workforce solution at critical times like these. However, contracts with agencies must include standard language that safeguards organizations against potential liability.



**ASSESSMENT:** Analyze and consider solutions for potential risk to your organization by reviewing these aspects of a contract:

- Professional standards
- Indemnification
- Provider insurance
- Renewal and termination

## RECOMMENDATIONS

- The contract should specify that the agency will provide current licenses, registration, and certifications to the facility (both initially and on contract renewal).
- The contract should specify that the agency shall purchase and maintain liability insurance in the appropriate types (professional liability, general liability, workers' compensation, etc.) and amounts for the facility—both for the duration of the agreement and for a reasonable time after expiration of the agreement.
- The agency and the organization “shall indemnify and hold harmless the other party and its parents, subsidiaries, affiliates, shareholders, directors, officers, trustees, employees, agents, and contractors against all actions, claims, and demands whatsoever, including costs, expenses, and reasonable attorneys’ fees resulting from or claimed to have resulted from any negligent acts or omissions of the indemnifying party, its employees, or independent contractors, with respect to the performance of services under the agreement or in the performance of the indemnifying party’s obligations pursuant to this agreement.” Indemnity clauses should be limited to only acts or omissions that arise from conduct under the agreement. Indemnity clauses can often be boilerplate, so risk managers should be certain indemnity clauses are specific to any claims that may arise out of their particular agreement.
- The agency agreement should have an initial term of one year beginning on the effective date of the agreement or initial term. The agreement should then specify it may be renewed annually only via written amendment signed by both parties for a total term not to exceed a time set by the organization. Agency agreement should not include an “evergreen clause,” which allows for automatic renewal of the agreement if no action is taken by your organization.

Test your knowledge of staffing contracts using this ASHRM resource:

<https://www.ashrm.org/patient-safety-week-agency-contracts>