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## OLR Bill Analysis

### sHB 5313

#### ***AN ACT CONCERNING REGISTRATION OF TEMPORARY NURSING SERVICES AGENCIES AND MAXIMUM RATES FOR TEMPORARY NURSING SERVICES AT NURSING HOME FACILITIES.***

#### **SUMMARY**

This bill repeals current statutes on nursing pools and replaces them with provisions for “temporary nursing services agencies” with the same requirements. Under the bill, these agencies provide temporary nursing services to nursing homes, residential care homes, and hospitals on a per diem or temporary basis, excluding fixed-term nursing services.

Additionally, the bill:

1. requires the Department of Public Health (DPH) commissioner, by October 1, 2022, to establish an annual registration system for these agencies and authorizes her to charge an annual registration fee of up to \$750;
2. starting by January 1, 2023, prohibits temporary nursing services agencies from providing services in the state unless they obtain DPH registration;
3. requires the DPH commissioner to adopt regulations to establish requirements for these agencies, including minimum nursing personnel qualifications and an annual cost report that must be filed with DPH by each January 15;
4. requires the Department of Social Services (DSS) commissioner, by January 1, 2023, to set maximum rates these agencies may charge a nursing home facility in the state by type of nursing personnel; and

5. requires these agencies, starting January 15, 2024, to submit annual cost reports to the DSS commissioner, which may be subject to audit.

The bill also makes technical and conforming changes (§§ 5-8).

EFFECTIVE DATE: July 1, 2022

## **DEFINITIONS**

Under the bill, “temporary nursing services” are services provided to nursing homes, residential care homes, and hospitals (“health care facilities”) on a per diem or temporary basis. It does not include fixed term nursing services (i.e., those provided for at least 90 days by contracted nursing personnel who live at least 200 miles away from the facility and require temporary accommodations).

“Nursing personnel” means advanced practice registered nurses, licensed practical nurses and registered nurses (including those issued temporary permits), and nurse’s aides.

A “temporary nursing services agency” is any person, firm, corporation, limited liability company, partnership, or association that procures or provides temporary nursing services to health care facilities. It does not include (1) a health care facility or its subsidiary that supplies nursing personnel only to its own facility without charge or (2) individuals who offer only their own temporary nursing services.

## **TEMPORARY NURSING STAFFING AGENCIES**

### ***Regulations and Access to Documents***

The bill requires the DPH commissioner to adopt regulations to set requirements for these agencies, including minimum nursing personnel qualifications and an annual cost report that must be filed with DPH by each January 15. The report must cover the previous calendar year and include (1) in-state costs and revenues, (2) average fees the agency charges health care facilities in Connecticut by type of nursing personnel, and (3) the permanent states of residency for nursing personnel supplied by the agency to health care facilities in the state, aggregated by type of nursing personnel.

The bill also requires agencies to make available to DPH, upon request, records, books, reports, and other data related to their operation.

### ***Written Agreements***

As under current law for nursing pools, the bill requires temporary nursing services agencies to enter into a written agreement with a health care facility that ensures that the assigned nursing personnel have appropriate credentials. The agreement must be on file at both the agency and facility within 14 days after the nursing personnel's assignment.

The bill subjects health care facilities who fail to do so to DPH disciplinary action (e.g., probation, letter of reprimand, or license suspension), as under current law for nursing pools.

### ***Appeals***

As under current law for nursing pools, the bill permits a person aggrieved by a temporary nursing services agency to petition the Superior Court for the judicial district where the agency's services were provided. The aggrieved person may seek relief, including temporary and permanent injunctions, or bring a civil action for damages.

### ***Civil Penalties***

As under current law for nursing pools, the bill authorizes the court to assess a civil penalty of up to \$300 per violation against a temporary nursing services agency that violates the bill's provisions. It specifies that each violation is a separate and distinct offense, and in the case of a continuing violation, each day it continues is a separate and distinct offense.

It also allows the DPH commissioner to request the attorney general to bring a civil action in the Superior Court for the judicial district of Hartford for injunctive relief to restrain any further violation. The Superior Court must grant the relief after a notice and hearing.

## **RATE SETTING**

### ***Maximum Rates***

The bill requires the DSS commissioner, in consultation with the DPH commissioner and by January 1, 2023, to set maximum rates that temporary nursing services agencies may charge a nursing home facility in the state by type of nursing personnel.

Under the bill, the rates must include an allowance for wages, payroll taxes, workers' compensation insurance, training, and fringe benefits, which must be based on the median rates for these allowances paid to permanent nursing personnel staff of the same type at nursing homes in the same geographic area.

The bill requires the DSS commissioner to include in the rates an allowance for reasonable administrative expenses and a reasonable profit factor of up to 15%, as she determines. It allows the commissioner to set higher rates for certain fixed-term nursing services personnel who are contracted to work exclusively at a nursing home for at least 90 days.

The bill also allows the DSS commissioner to adopt regulations to implement the rate setting.

### ***Annual Cost Reports***

Starting January 15, 2024, the bill requires temporary nursing services agencies to submit to the DSS commissioner annual cost reports, which may be subject to audit. The cost reports must include data on the (1) average fees the agency charges to nursing homes in Connecticut by the type of nursing personnel supplied to the homes and (2) wages and benefits provided to these nursing personnel.

Under the bill, the commissioner must consider these cost reports, along with annual nursing home cost reports required under existing law, when setting maximum rates for temporary nursing services agencies.

### **COMMITTEE ACTION**

Aging Committee

Joint Favorable Substitute

Yea 9 Nay 6 (03/10/2022)