

## HOUSE BILL No. 2184

By Committee on Social Services Budget

Requested by Representative King on behalf of LeadingAge Kansas

1-31

1 AN ACT concerning health and healthcare; relating to the Kansas  
2 department for aging and disability services; providing for the  
3 regulation of supplemental nursing services agencies and healthcare  
4 worker platforms thereby; creating the supplemental nursing services  
5 agency and healthcare worker platforms regulation fund.  
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. As used in sections 1 through 4, and amendments thereto:

9 (a) "Controlling person" means:

10 (1) A business entity, officer, program administrator or director whose  
11 responsibilities include the direction of the management or policies of a  
12 supplemental nursing services agency; or

13 (2) a person who, directly or indirectly, beneficially owns an interest  
14 in a corporation, partnership or other business association described in  
15 paragraph (1).

16 (b) "Healthcare facility" includes any:

17 (1) Medical care facility, as defined in K.S.A. 65-425, and  
18 amendments thereto; or

19 (2) adult care home, as defined in K.S.A. 39-923, and amendments  
20 thereto.

21 (c) "Hospital long-term care unit" means a nursing facility, as defined  
22 in K.S.A. 39-923, and amendments thereto, that is owned and operated by  
23 and a part of a hospital, as defined in K.S.A. 65-425, and amendments  
24 thereto.

25 (d) "Healthcare personnel" means any individual licensed, registered,  
26 certified or credentialed by the state of Kansas to perform specified health  
27 services acting within the scope of practice as required by law.

28 (e) "Person" means any natural or artificial person, including, but not  
29 limited to, individuals, corporations, partnerships or other business  
30 associations.

31 (f) "Secretary" means the secretary for aging and disability services.

32 (g) (1) "Supplemental nursing services agency" means a person  
33 engaged for hire in the business of providing or procuring temporary  
34 employment of healthcare personnel in healthcare facilities.

35 (2) "Supplemental nursing services agency" does not include any

1 individual who only engages in providing such individual's services on a  
2 temporary basis to healthcare facilities.

3 (h) "Healthcare worker platform" means an individual, corporation,  
4 partnership or other business association that operates an electronic  
5 platform, system or application on which healthcare personnel who are  
6 independent contractors may be listed as available to serve as a temporary  
7 healthcare personnel in healthcare facilities.

8 Sec. 2. (a) The secretary shall adopt rules and regulations as  
9 necessary to implement the provisions of sections 1 through 4, and  
10 amendments thereto.

11 (b) The secretary shall be responsible for the oversight of  
12 supplemental nursing services agencies and healthcare worker platforms  
13 through unannounced surveys, complaint investigations and other actions  
14 necessary to ensure compliance with sections 1 through 4, and  
15 amendments thereto.

16 (c) The secretary shall establish a system for the reporting of  
17 complaints against supplemental nursing services agencies, healthcare  
18 personnel employed by supplemental nursing services agencies, healthcare  
19 worker platforms and independent contractors serving as temporary  
20 healthcare personnel. Complaints may be made by any member of the  
21 public.

22 Sec. 3. (a) A person who operates a supplemental nursing services  
23 agency or healthcare worker platform shall register annually with the  
24 secretary. If such supplemental nursing services agency has more than one  
25 business location in Kansas, each such location shall be individually  
26 registered with the secretary.

27 (b) (1) The secretary shall establish forms and procedures for  
28 processing each supplemental nursing services agency and healthcare  
29 worker platform registration application. An application for a supplemental  
30 nursing services agency and healthcare worker platform registration shall  
31 include, but not be limited to:

32 (A) The names and addresses of the owner or owners of the  
33 supplemental nursing services agency or healthcare worker platform;

34 (B) if the owner is a corporation, copies of the corporation's articles  
35 of incorporation and current bylaws, together with the names and  
36 addresses of the corporation's officers and directors;

37 (C) satisfactory proof of compliance with section 4(a)(1)(E) through  
38 (G), and amendments thereto;

39 (D) any other relevant information that the secretary determines is  
40 necessary to properly evaluate an application for registration;

41 (E) a policy and procedure that describes how the supplemental  
42 nursing services agency's or healthcare worker platform's records will be  
43 immediately available at all times to the secretary; and

1 (F) a registration fee of \$2,035.

2 (c) If a supplemental nursing services agency or healthcare worker  
3 platform fails to provide the information required by this section to the  
4 secretary, the secretary shall immediately deny the supplemental nursing  
5 services agency's or healthcare worker platform's registration. The  
6 supplemental nursing services agency or healthcare worker platform may  
7 appeal the secretary's findings in accordance with the provisions of the  
8 Kansas administrative procedure act, K.S.A. 77-501 et seq., and  
9 amendments thereto, except that the hearing shall be conducted by an  
10 administrative law judge within 60 calendar days after the secretary  
11 receives any such request for a hearing.

12 (d) A registration issued by the secretary according to this section is  
13 effective for a period of one year from the date of issuance unless the  
14 registration is revoked under section 4, and amendments thereto, or unless  
15 the supplemental nursing services agency or healthcare worker platform is  
16 sold, or ownership or management of the agency or platform is transferred.  
17 If a supplemental nursing services agency or healthcare worker platform is  
18 sold, or ownership or management of the agency or platform is transferred,  
19 the registration of the agency or platform shall be voided and the new  
20 owner or operator may apply for a new registration.

21 (e) There is hereby created in the state treasury the supplemental  
22 nursing services agency and healthcare worker platform regulation fund.  
23 The fund shall be administered by the secretary. All expenditures from the  
24 supplemental nursing services agency and healthcare worker platform  
25 regulation fund shall be made in accordance with appropriation acts upon  
26 warrants of the director of accounts and reports issued pursuant to  
27 vouchers signed by the secretary or the secretary's designee.

28 (f) The secretary shall remit all moneys received from fees collected  
29 under this section to the state treasurer in accordance with the provisions  
30 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
31 remittance, the state treasurer shall deposit the entire amount in the state  
32 treasury to the credit of the supplemental nursing services agency and  
33 healthcare worker platform regulation fund.

34 Sec. 4. (a) (1) The secretary shall require, as a condition of  
35 registration, that the supplemental nursing services agency and healthcare  
36 worker platform shall:

37 (A) Document that each temporary healthcare personnel or  
38 independent contractor provided to healthcare facilities currently meets the  
39 minimum licensing, training and continuing education standards for the  
40 position in which the healthcare personnel or independent contractor will  
41 be working;

42 (B) comply with all applicable legal requirements relating to the  
43 qualifications of healthcare personnel or independent contractors who

1 work in the healthcare facility, including the performance of criminal  
2 history record checks in accordance with K.S.A. 39-970, and amendments  
3 thereto;

4 (C) not restrict, in any manner, the employment opportunities of its  
5 healthcare personnel or independent contractors;

6 (D) carry medical malpractice insurance coverage for the loss,  
7 damage or expense incident to a claim arising out of the death or injury of  
8 any person as the result of negligence or malpractice in the provision of  
9 healthcare services by the supplemental nursing services agency, any  
10 healthcare personnel employed by the agency, the healthcare worker  
11 platform or any independent contractor;

12 (E) carry a fidelity bond or fidelity insurance in the amount of at least  
13 \$10,000;

14 (F) maintain insurance coverage for workers compensation for all  
15 healthcare personnel and independent contractors provided or procured by  
16 the agency or platform;

17 (G) for supplemental nursing services agencies, comply with the  
18 applicable requirements of the Kansas withholding and declaration of  
19 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto;

20 (H) for healthcare worker platforms, provide the name and addresses  
21 of each independent contractor for whom income taxes will not be  
22 withheld;

23 (I) in any contract with any healthcare personnel, independent  
24 contractor or healthcare facility, not require the payment of liquidated  
25 damages, employment fees or other compensation if any such healthcare  
26 personnel or independent contractor is hired as a permanent employee of a  
27 healthcare facility;

28 (J) document that personnel provided to healthcare facilities are  
29 healthcare personnel of the agency or independent contractors;

30 (K) retain all records for five calendar years and organize such  
31 records so that they can be made immediately available to the secretary  
32 upon request; and

33 (L) submit a report to the secretary on a quarterly basis for each  
34 healthcare facility that participates in medicare or medicaid with which the  
35 supplemental nursing services agency or healthcare worker platform  
36 contracts, and such report shall include a detailed list of the average  
37 amount:

38 (i) Charged to the healthcare facility for each individual agency  
39 healthcare personnel or independent contractor category; and

40 (ii) paid by the agency to healthcare personnel and healthcare worker  
41 platforms to independent contractors in each individual agency worker  
42 category.

43 (2) In order to retain registration, the supplemental nursing services

1 agency or healthcare worker platform shall provide services to a healthcare  
2 facility during the year preceding the supplemental nursing services  
3 agency's or healthcare worker platform's registration renewal date.

4 (b) Failure to comply with this section shall subject the supplemental  
5 nursing services agency or healthcare worker platform to revocation or  
6 nonrenewal of its registration. A supplemental nursing services agency's or  
7 healthcare worker platform's registration or renewal registration  
8 application shall not be revoked or denied without a hearing held in  
9 accordance with the provisions of the Kansas administrative procedure act,  
10 K.S.A. 77-501 et seq., and amendments thereto, except that any such  
11 hearing shall be conducted by an administrative law judge within 60  
12 calendar days after the secretary receives a request for any such hearing.

13 (c) Notwithstanding subsection (b), the secretary shall revoke the  
14 registration of any supplemental nursing services agency or healthcare  
15 worker platform that knowingly supplies to a healthcare facility any  
16 healthcare personnel or independent contractor with an illegally or  
17 fraudulently obtained or issued diploma, registration, license, certificate or  
18 background study. The secretary shall not be required to provide the  
19 agency or platform with an opportunity for a hearing described in  
20 subsection (b) prior to revoking the registration under this subsection. The  
21 secretary shall notify the supplemental nursing services agency or  
22 healthcare worker platform at least 15 calendar days in advance of the date  
23 of revocation.

24 (d) (1) The controlling person of a supplemental nursing services  
25 agency or healthcare worker platform whose registration has not been  
26 renewed or has been revoked because of noncompliance with the  
27 provisions of sections 1 through 4, and amendments thereto, shall not be  
28 eligible to apply for or be granted a registration for five years following  
29 the effective date of such nonrenewal or revocation.

30 (2) The secretary shall not issue or renew a registration to a  
31 supplemental nursing services agency or healthcare worker platform if the  
32 controlling person of such agency or platform includes any person or  
33 entity who was a controlling person of a supplemental nursing services  
34 agency or healthcare worker platform whose registration was not renewed  
35 or was revoked under this subsection for five years following the effective  
36 date of such nonrenewal or revocation.

37 Sec. 5. This act shall take effect and be in force from and after its  
38 publication in the statute book.