

SENATE BILL No. 228

By Committee on Ways and Means

2-6

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
36 individual who only engages in providing such individual's services on a

1 temporary basis to healthcare facilities.

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

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

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

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

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

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

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

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

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

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

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

43 (6) a registration fee of \$2,035.

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

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

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

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

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

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

41 (B) comply with all applicable legal requirements relating to the
42 qualifications of healthcare personnel or independent contractors who
43 work in the healthcare facility, including the performance of criminal

- 1 history record checks in accordance with K.S.A. 39-970, and amendments
2 thereto;
- 3 (C) not restrict, in any manner, the employment opportunities of its
4 healthcare personnel or independent contractors;
- 5 (D) carry medical malpractice insurance coverage for the loss,
6 damage or expense incident to a claim arising out of the death or injury of
7 any person as the result of negligence or malpractice in the provision of
8 healthcare services by the supplemental nursing services agency, any
9 healthcare personnel employed by the agency, the healthcare worker
10 platform or any independent contractor;
- 11 (E) carry a fidelity bond or fidelity insurance in the amount of at least
12 \$10,000;
- 13 (F) maintain insurance coverage for workers compensation for all
14 healthcare personnel and independent contractors provided or procured by
15 the agency or platform;
- 16 (G) for supplemental nursing services agencies, comply with the
17 applicable requirements of the Kansas withholding and declaration of
18 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto;
- 19 (H) for healthcare worker platforms, provide the name and addresses
20 of each independent contractor for whom income taxes will not be
21 withheld;
- 22 (I) in any contract with any healthcare personnel, independent
23 contractor or healthcare facility, not require the payment of liquidated
24 damages, employment fees or other compensation if any such healthcare
25 personnel or independent contractor is hired as a permanent employee of a
26 healthcare facility;
- 27 (J) document that personnel provided to healthcare facilities are
28 healthcare personnel of the agency or independent contractors;
- 29 (K) retain all records for five calendar years and organize such
30 records so that they can be made immediately available to the secretary
31 upon request; and
- 32 (L) submit a report to the secretary on a quarterly basis for each
33 healthcare facility that participates in medicare or medicaid with which the
34 supplemental nursing services agency or healthcare worker platform
35 contracts, and such report shall include a detailed list of the average
36 amount:
- 37 (i) Charged to the healthcare facility for each individual agency
38 healthcare personnel or independent contractor category; and
- 39 (ii) paid by the agency to healthcare personnel and healthcare worker
40 platforms to independent contractors in each individual agency worker
41 category.
- 42 (2) In order to retain registration, the supplemental nursing services
43 agency or healthcare worker platform shall provide services to a healthcare

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

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

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

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

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

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