SUBSTITUTE SENATE BILL 5547

State of Washington   **68th Legislature**   **2023 Regular Session**

By Senate Health & Long Term Care (originally sponsored by Senators Robinson, Muzzall, Hasegawa, and Mullet)

READ FIRST TIME 02/17/23.

1   AN ACT Relating to transparency for nursing pools that provide
2 health care personnel to hospitals and long-term care facilities;
3 amending RCW 18.52C.030 and 18.52C.040; reenacting and amending RCW
4 18.52C.020; and adding a new section to chapter 18.52C RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6   **Sec. 1.** RCW 18.52C.020 and 2012 c 10 s 36 are each reenacted and
7 amended to read as follows:
8   Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.
10   (1) "Adult family home" means a residential home licensed
11 pursuant to chapter 70.128 RCW.
12   (2) "Assisted living facility" means an assisted living facility
13 licensed under chapter 18.20 RCW.
14   (3) "Enhanced services facility" means an enhanced services
15 facility licensed under chapter 70.97 RCW.
16   (4) "Health care facility" means a nursing home, hospital,
17 hospice care facility, home health care agency, hospice agency,
18 assisted living facility, group home, or other entity for the
19 delivery of health care or long-term care services, including chore
20 services provided under chapter 74.39A RCW.

(((3))) (5) "Health care personnel" means a registered nurse or licensed practical nurse as defined in chapter 18.79 RCW, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant-certified as defined in RCW 18.88A.020 who is a temporary employee or a referred independent contractor of a nursing pool.

(6) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(7) "Long-term care personnel" means any person who qualifies as a long-term care worker as defined in RCW 49.95.010.

(8) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(((4))) (9) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care or long-term care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses, nursing assistants, and chore service providers. "Nursing pool" does not include an individual who only engages in providing his or her own services. "Nursing pool" does not include a hospital, clinic, nursing home, assisted living facility, enhanced services facility, or an adult family home that provides temporary staffing to its own organization.

(((5))) (9) "Person" includes an individual, firm, corporation, partnership, or association.

(((6))) (10) "Secretary" means the secretary of the department of health.

Sec. 2. RCW 18.52C.030 and 1996 c 191 s 28 are each amended to read as follows:

(1) A person who operates a nursing pool shall register the pool with the secretary. Each separate location of the business of a nursing pool shall have a separate registration.

(2) In addition to the requirements in subsection (1) of this section, a person who operates a nursing pool that employs, procures, or refers health care or long-term care personnel for temporary employment in a hospital, nursing home, assisted living facility, enhanced services facility, or an adult family home as defined in RCW 18.52C.020 shall:

1   (a) Register the pool with the secretary annually; and

2   (b) Disclose corporate structure and ownership, if any, which the

3   secretary shall make publicly available, as part of the annual

4   registration process.

5   (3) The secretary shall establish administrative procedures,

6   administrative requirements, and fees as provided in RCW 43.70.250

7   and 43.70.280. All fees or assessments levied by the state to cover

8   the costs associated with this section shall be borne by the persons

9   who operate nursing pools.

10   NEW SECTION. **Sec. 3.** A new section is added to chapter 18.52C

11   RCW to read as follows:

12   (1) Nursing pools operating in Washington state shall report to

13   the secretary annually the following information, at a minimum, by

14   county in which the health care or long-term care personnel performed

15   the work and by type of hospital, nursing home, assisted living

16   facility, enhanced services facility, or adult family home:

17   (a) The average amount charged by the nursing pool for health

18   care or long-term care personnel by license type;

19   (b) The average amount paid by the nursing pool to health care or

20   long-term care personnel by license type;

21   (c) The average amount of labor-related costs paid by the nursing

22   pool by health care or long-term care personnel license type, such as

23   payroll taxes, workers' compensation insurance, professional

24   liability coverage, credentialing, and other employee-related costs;

25   (d) The number of placements made within 25 miles and 50 miles of

26   the health care or long-term care personnel's residence as identified

27   in their employee tax information; and

28   (e) The total number of placements made by the nursing pool.

29   (2) The secretary shall produce an annual report to be made

30   available on the department of health's website. The annual report

31   shall include, at a minimum, the following information by county in

32   which the health care or long-term care personnel performed the work

33   and by type of hospital, nursing home, assisted living facility,

34   enhanced services facility, or adult family home:

35   (a) The average amount charged by nursing pools for health care

36   or long-term care personnel by license type;

37   (b) The average amount paid by the nursing pool to health care or

38   long-term care personnel by license type;

(c) The average amount of labor-related costs paid by the nursing pool by health care or long-term care personnel license type, such as payroll taxes, workers' compensation insurance, professional liability coverage, credentialing, and other employee-related costs;

(d) The number of placements made within 25 miles and 50 miles of the health care or long-term care personnel's residence as identified in their employee tax information; and

(e) The total number of placements made by each registered nursing pool.

Sec. 4. RCW 18.52C.040 and 1997 c 392 s 528 are each amended to read as follows:

(1) The nursing pool shall document that each ((temporary employee or referred independent contractor)) health care or long-term care personnel provided or referred to health care facilities currently meets the applicable minimum state credentialing requirements including, but not limited to: Licensure, certification, training, health requirements, and continuing education standards, for the health care or long-term care personnel's position in the health care facility.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

1   (4) The nursing pool shall provide the nursing home, assisted
 2 living facility, enhanced services facility, or adult family home
 3 written notice, at least 90 days in advance, of contract changes
 4 including, but not limited to, availability or charges for services,
 5 items, or activities.
 6   (5) A nursing pool may not, in any contract with health care
 7 personnel or a nursing home, assisted living facility, enhanced
 8 services facility, or adult family home that lasts longer than 13
 9 weeks, require the payment of liquidated damages, employment fees, or
10 other compensation if health care or long-term care personnel is
11 hired as a permanent employee by the nursing home, assisted living
12 facility, enhanced services facility, or adult family home.
13   (6) Nursing pools shall provide to the secretary annually the
14 average total hours worked and billed by nursing category and as
15 aggregated by nursing home, assisted living facility, enhanced
16 services facility, or adult family home facility type.
17   (7) The uniform disciplinary act, chapter 18.130 RCW, shall
18 govern the issuance and denial of registration and the discipline of
19 persons registered under this chapter. The secretary shall be the
20 disciplinary authority under this chapter.
21   (((5))) (8) The nursing pool shall conduct a ((criminal))
22 background check on all ((employees and independent contractors))
23 health care and long-term care personnel as required under RCW
24 43.43.842 and 74.39A.056, and an exclusion verification as required
25 under 42 U.S.C. Sec. 1320a-7, prior to employment or referral of the
26 ((employee or independent contractor)) health care or long-term care
27 personnel.

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