



Senate

General Assembly

File No. 545

January Session, 2005

Substitute Senate Bill No. 1159

Senate, April 27, 2005

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING RATES FOR NURSING POOL SERVICES PROVIDED TO HEALTH CARE INSTITUTIONS AND CORRECTIONAL INSTITUTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2005*) (a) For purposes of this
2 section, "nursing pool" means any person, firm, corporation, limited
3 liability company, partnership or association engaged for a fee in the
4 business of employing and providing health care personnel on a
5 temporary basis to one or more health care institutions, as defined in
6 section 19a-490 of the general statutes, or a correctional institution, as
7 defined in section 1-1 of the general statutes. "Nursing pool" does not
8 include: (1) A licensed health care institution or subsidiary thereof
9 which supplies temporary health care personnel to its own institution
10 only and does not charge a fee to such institution; or (2) an individual
11 who offers only his or her own personal services on a temporary basis.

12 (b) On and after July 1, 2005, no person acting individually or jointly

13 with any other person shall establish, conduct, operate or maintain a
14 nursing pool in this state without first obtaining a certificate of
15 registration from the Commissioner of Consumer Protection.

16 (c) Any person seeking a certificate of registration as a nursing pool
17 shall apply to the commissioner, in writing, on a form prescribed by
18 the commissioner. The application shall include the applicant's name,
19 business address, business telephone number, contact person, a
20 description of the controlling company or organization and such other
21 information as the commissioner may require.

22 (d) Certificates of registration issued to a nursing pool shall not be
23 transferable or assignable.

24 (e) Each application for a certificate of registration for a nursing pool
25 shall be accompanied by a fee in an amount determined by the
26 commissioner. Such registration fee shall be the lower of: (1) The pro
27 rata actual collective cost to the Department of Consumer Protection of
28 regulating such nursing pools, or (2) one thousand dollars. The
29 amount of such registration fee shall be published on the department's
30 Internet web site. All certificates of registration issued under this
31 section shall expire annually. The fee for a renewal of a certificate shall
32 be determined by the method prescribed in this subsection. Fees
33 collected pursuant to the issuance of a certificate or renewal of a
34 certificate shall, upon deposit in the General Fund, be credited to the
35 Department of Consumer Protection for personal services.

36 (f) Upon the failure by a nursing pool to comply with the
37 registration provisions of this section, the Attorney General, at the
38 request of the Commissioner of Consumer Protection, is authorized to
39 apply in the name of the state of Connecticut to the Superior Court for
40 an order temporarily or permanently restraining and enjoining a
41 nursing pool from continuing to do business in the state.

42 Sec. 2. (NEW) (*Effective July 1, 2005*) (a) Not later than October 1,
43 2005, a nursing pool shall file with the Department of Consumer
44 Protection the rates of such nursing pool for services provided by (1)

45 registered nurses, licensed pursuant to chapter 378 of the general
46 statutes, (2) licensed practical nurses, licensed pursuant to chapter 378
47 of the general statutes, and (3) nurse's aides, registered pursuant to
48 chapter 378a of the general statutes. The rates filed by such nursing
49 pools shall reflect full compensation for services provided by a nursing
50 pool, including any administrative or supervisory duties provided by
51 the nursing pool on behalf of a health care institution or correctional
52 institution.

53 (b) Rates filed by such nursing pool shall not be excessive or
54 inadequate, as provided in this subsection, nor shall they be unfairly
55 discriminatory. No rate shall be held to be excessive unless (1) such
56 rate is unreasonably high when compared to the cost incurred by the
57 nursing pool to provide such service, or (2) a reasonable degree of
58 competition does not exist in the area with respect to the service to
59 which such rate is applicable. No rate shall be held inadequate unless
60 (A) it is unreasonably low for the service provided, and (B) continued
61 use of such rate would endanger solvency of the nursing pool, or (C)
62 unless such rate is unreasonably low for the service provided and the
63 use of such rate by the nursing pool has, or, if continued, will have the
64 effect of destroying competition or creating a monopoly.

65 (c) A nursing pool, upon filing rates or proposed rates with the
66 department pursuant to subsections (a) and (e) of this section, shall
67 certify to the department that it has provided contemporaneous
68 written notice of the rates filed with the department, to all customers
69 of such nursing pool. The written notice provided by the nursing pool
70 to all customers shall include: (1) A summary of the rates filed with the
71 department, and (2) contact information that will allow customers of
72 the nursing pool to ascertain the date, time and place of the hearing on
73 rates or proposed rates filed with the department.

74 (d) The department shall review the rates filed by nursing pools
75 pursuant to subsection (a) of this section and shall schedule a public
76 hearing on such rates not later than sixty days after the date of receipt
77 of such rates. Not less than fourteen days prior to the date of a

78 scheduled public hearing on such rates, the department shall provide
 79 notice of such hearing to the nursing pool by certified mail and to the
 80 public by publication on the department's Internet web site. Rates filed
 81 by the nursing pool pursuant to subsection (a) of this section shall be
 82 effective pending review by the department. The department shall
 83 approve, deny or modify the rates filed by a nursing pool pursuant to
 84 subsection (a) of this section, not later than thirty days after the date of
 85 the public hearing.

86 (e) A nursing pool that seeks to change rates approved by the
 87 department in accordance with the provisions of this section, shall file
 88 a request for such proposed change with the department not less than
 89 sixty days prior to the proposed effective date of such change.
 90 Proposed rate changes shall not be effective until approved by the
 91 department. The department shall schedule a public hearing on such
 92 proposed rate changes not later than forty-five days after the date of
 93 receipt of such rates. Not less than fourteen days prior to the date of a
 94 scheduled public hearing on such proposed rates, the department shall
 95 provide notice of such hearing to the nursing pool by certified mail
 96 and to the public by publication on the department's Internet web site.
 97 The department shall approve or deny the proposed rates filed by a
 98 nursing pool pursuant to this subsection not later than thirty days after
 99 the date of the public hearing.

100 (f) The Commissioner of Consumer Protection may adopt
 101 regulations, in accordance with chapter 54 of the general statutes, to
 102 establish policies and procedures utilized in making determinations on
 103 rates submitted to the department in accordance with the provisions of
 104 this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2005	New section
Sec. 2	July 1, 2005	New section

AGE

Joint Favorable Subst. C/R

PH

PH *Joint Favorable C/R*

FIN

FIN *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Consumer Protection, Dept.	GF - Cost	196,787	187,612
State Comptroller - Fringe Benefits	GF - Cost	34,453	82,004
Consumer Protection, Dept.	GF - Revenue Gain	Up to 196,787	Up to 196,787

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires nursing pools in Connecticut to register with the Department of Consumer Protection (DCP) and requires DCP to regulate the rates that nursing pools can charge. In order to review rates filed by nursing pools, and to approve, deny, or modify such rates, DCP would need to hire an Administrative Hearings Attorney (\$58,528 annually), an Accounts Examiner (\$50,828 annually), and a Paralegal Specialist (\$42,760 annually), and \$35,500 in Other Expenses in fees for arbitration services and administrative hearing costs.¹ Additionally, DCP would incur one-time start up costs of \$9,175 in Other Expenses and Equipment in FY 06. In conclusion, the state would incur \$234,890 and \$268,551 in FY 06 and FY 07 respectively.

Under the bill, the DCP Commissioner is allowed to set a registration and annual renewal fee equal to the lesser of \$1,000, or the

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated fringe benefit reimbursement rate as a percentage of payroll is 53.91%, effective July 1, 2004. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 22.65%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

pro rata actual collective cost to DCP of regulating nursing pools. The bill also states that registration fees received by DCP for registering nursing pools will be deposited into the General Fund, and credited to DCP's Personal Services, this results in a revenue gain to the General Fund. Since it is uncertain as to how many nursing pools, as defined in the bill, will be required to register in the state, it is uncertain exactly how much the registration and annual renewal fee would be.

OLR Bill Analysis

sSB 1159

AN ACT CONCERNING RATES FOR NURSING POOL SERVICES PROVIDED TO HEALTH CARE INSTITUTIONS AND CORRECTIONAL INSTITUTIONS**SUMMARY:**

This bill (1) requires nursing pools in Connecticut to register annually with the Department of Consumer Protection (DCP) starting July 1, 2005 and (2) regulates the rates they can charge. It allows the DCP commissioner to set the registration and annual renewal fees at the lower of \$1,000 or the pro rated actual cost of regulating the pools. The bill also imposes penalties for failure to register and comply with its provisions. A "nursing pool" is a business that provides temporary health care personnel for a fee to hospitals, nursing homes, other health care institutions, or correctional institutions.

The bill prescribes procedures for nursing pools to register and, by October 1, 2005, file with DCP the rates they charge for registered nurses, licensed practical nurses, and nurse's aides. The filed rates cannot be excessive, inadequate, or unfairly discriminatory. The bill prescribes procedures for DCP review and approval of the filed rates and subsequent rate changes and it allows the DCP commissioner to adopt implementing regulations.

EFFECTIVE DATE: July 1, 2005

NURSING POOLS DEFINED

Under the bill, a "nursing pool" is any person, firm, corporation, limited liability company, partnership, or association that employs and provides temporary health care personnel for a fee to one or more health care or correctional institutions. The term does not include (1) licensed health care institutions or their subsidiaries that perform this function only for their own institutions without charging a fee or (2) individuals who offer only their own personal services on a temporary basis.

By law, a health care "institution" is a hospital; residential care home;

health care facility for the handicapped; nursing home; rest home; home health care or homemaker-home health aide agency; mental health or substance-abuse treatment facility; outpatient surgical facility; an infirmary operated by an educational institution for the care of its students, faculty, and employees; intermediate care facilities for people with mental retardation; or any other similar health care facility (except a state mental health or substance-abuse treatment facility). A "correctional institution" is a correctional facility administered by the correction commissioner.

REGISTRATION

Requirement

Starting July 1, 2005, the bill prohibits anyone from acting individually or jointly with someone else to establish, conduct, operate, or maintain a nursing pool in Connecticut without first registering with the DCP commissioner. The registration expires annually unless renewed and is not transferable or assignable.

Application Procedures

To register, a nursing pool must apply to the commissioner on a form he prescribes. The application must include the applicant's name, business address and telephone number, contact person, a description of the controlling company or organization, and whatever other information the commissioner requires.

Fees

The application must be accompanied by a registration fee in an amount the commissioner sets. The bill allows the commissioner to set the registration and annual renewal fees at the lower of \$1,000 or the department's pro rated actual aggregate cost of regulating the pools. DCP must publish the fee on its Internet website. Fees collected must be deposited in the General Fund and credited to DCP for personal services.

Failure to Comply with Registration

If a nursing pool fails to comply with the registration procedures, the bill authorizes the attorney general, at the DCP commissioner's request, to apply to the Superior Court for a temporary or permanent

restraining order and injunction against the pool continuing to do business in the state.

REQUIRED RATE FILINGS

Initial Filings

The bill requires each nursing pool, by October 1, 2005, to file with DCP the rates it charges for services by registered nurses, licensed practical nurses, and nurse's aides. The filed rates must reflect full compensation for services the nursing pool provides, including administrative or supervisory duties it provides on behalf of the institution.

The filed rates cannot be excessive, inadequate, or unfairly discriminatory. Under the bill, a rate cannot be considered excessive unless (1) it is unreasonably high compared to the pool's cost to provide the service or (2) the area where the pool operates does not have a reasonable degree of competition for the particular service provided. A rate cannot be considered inadequate unless it is unreasonably low for the service provided and (1) its continued use would endanger the pool's solvency or (2) its use or continued use has or will have the effect of destroying competition or creating a monopoly.

When filing rates or proposed rates, the pool must certify to DCP that it has, at the same time, given written notice of them to all its customers. The notice to customers must include a summary of the filed rates and contact information that allows customers to learn the date, time, and place of the hearing on the rates.

The filed rates are effective pending DCP review. DCP must schedule a public hearing on the rates not later than 60 days after receiving them. At least 14 days before the hearing date, DCP must give notice of the hearing to the pool by certified mail and to the public by publication on its Internet website. DCP must approve, deny, or modify the filed rates within 30 days after the hearing date.

Rate Change Filings

If a nursing pool wants to change its approved rates, it must file a request with DCP at least 60 days before the proposed change is to take effect. Unlike the initial rate filings, proposed changes do not take

effect until DCP approves them. DCP must schedule a public hearing on the proposed changes within 45 days after receiving them. The same notice requirements apply as for the initial filings, and DCP has the same 30 days after the hearing to approve or deny the proposed rates (but DCP has no opportunity to modify them as it does for the initial filings).

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference
Yea 13 Nay 0

Public Health Committee

Joint Favorable Change of Reference
Yea 24 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 47 Nay 0