



# House of Representatives

General Assembly

**File No. 132**

February Session, 2022

Substitute House Bill No. 5313

*House of Representatives, March 28, 2022*

The Committee on Aging reported through REP. GARIBAY of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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

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

1 Section 1. (NEW) (*Effective July 1, 2022*) (a) As used in this section and  
2 sections 2 and 3 of this act, (1) "health care facility" means a hospital,  
3 residential care home or nursing home facility as those terms are defined  
4 in section 19a-490 of the general statutes; (2) "fixed-term nursing  
5 services" means services provided under contract for not less than  
6 ninety consecutive days exclusively to a health care facility by nursing  
7 personnel (A) whose permanent residence is at least two hundred miles  
8 from the health care facility, and (B) who establish a temporary  
9 residence and incur expenses for temporary accommodations paid for  
10 by a temporary nursing services agency to provide such services; (3)  
11 "nursing personnel" means an advanced practice registered nurse, a  
12 licensed practical nurse or a registered nurse licensed or issued a  
13 temporary permit to practice pursuant to chapter 378 of the general  
14 statutes or a nurse's aide registered pursuant to chapter 378a of the

15 general statutes; (4) "temporary nursing services" means services  
16 provided to a health care facility on a per diem or other temporary basis  
17 but does not include fixed-term nursing services; and (5) "temporary  
18 nursing services agency" means any person, firm, corporation, limited  
19 liability company, partnership or association that is engaged for hire in  
20 the business of procuring or providing temporary nursing services to a  
21 health care facility but does not include (A) a health care facility or  
22 subsidiary thereof that supplies nursing personnel to its own facility  
23 only and does not charge a fee to such facility, or (B) an individual who  
24 offers only his or her own temporary nursing services.

25 (b) Not later than October 1, 2022, the Commissioner of Public Health  
26 shall develop a system for a temporary nursing services agency that  
27 provides services in the state to register annually with the Department  
28 of Public Health. The commissioner may assess an annual registration  
29 fee of not more than seven hundred fifty dollars.

30 (c) Not later than January 1, 2023, no temporary nursing services  
31 agency shall provide temporary nursing services in the state unless it is  
32 registered pursuant to subsection (b) of this section.

33 (d) The Commissioner of Public Health shall adopt regulations, in  
34 accordance with the provisions of chapter 54 of the general statutes, to  
35 establish requirements for a temporary nursing services agency,  
36 including, but not limited to: (1) Minimum qualifications for nursing  
37 personnel provided by such agency, and (2) an annual cost report for  
38 the previous calendar year to be filed by such agency not later than  
39 January fifteenth with the commissioner. Such report shall detail (A)  
40 revenues and costs in the state, (B) average fees charged by such agency  
41 to a health care facility in the state by type of nursing personnel, and (C)  
42 the states of the permanent residences of nursing personnel supplied by  
43 the agency to health care facilities in the state, aggregated by type of  
44 nursing personnel. Each such agency shall make available records,  
45 books, reports and other data relating to its operation at the request of  
46 the commissioner or the commissioner's designee.

47 Sec. 2. (NEW) (Effective July 1, 2022) (a) A temporary nursing services

48 agency shall enter into a written agreement with each health care facility  
49 to which the agency assigns its nursing personnel. The agreement shall  
50 contain an assurance that assigned nursing personnel have appropriate  
51 credentials. The agreement shall be on file at both the temporary nursing  
52 services agency and the health care facility not later than fourteen days  
53 from the date of assignment.

54 (b) Any health care facility that fails to have the agreement described  
55 in subsection (a) of this section on file may be subject to disciplinary  
56 action in accordance with the provisions of chapter 368v of the general  
57 statutes and any applicable licensing regulations.

58 Sec. 3. (NEW) (*Effective July 1, 2022*) (a) Any person aggrieved by any  
59 action of a temporary nursing services agency may petition the superior  
60 court for the judicial district in which the agency's temporary nursing  
61 services were rendered for relief, including temporary and permanent  
62 injunctions, or may bring a civil action for damages.

63 (b) Any temporary nursing services agency that violates any  
64 provision of section 1 or 2 of this act may be assessed a civil penalty by  
65 the court not to exceed three hundred dollars for each offense. Each  
66 violation shall be a separate and distinct offense and, in the case of a  
67 continuing violation, each day of continuance thereof shall be deemed  
68 to be a separate and distinct offense. The Commissioner of Public Health  
69 may request the Attorney General to bring a civil action in the superior  
70 court for the judicial district of Hartford for injunctive relief to restrain  
71 any further violation of section 1 or 2 of this act. The Superior Court shall  
72 grant such relief upon notice and hearing.

73 Sec. 4. (NEW) (*Effective July 1, 2022*) (a) As used in this section,  
74 "temporary nursing services agency", "fixed-term nursing services" and  
75 "nursing personnel" have the same meaning as provided in section 1 of  
76 this act and "nursing home facility" has the same meaning as provided  
77 in section 19a-490 of the general statutes. Not later than January 1, 2023,  
78 the Commissioner of Social Services, in consultation with the  
79 Commissioner of Public Health, shall establish maximum rates a  
80 temporary nursing services agency may charge a nursing home facility

81 in the state by type of nursing personnel provided by such agency. The  
82 rates shall include an allowance for wages, payroll taxes, workers'  
83 compensation insurance, training and fringe benefits, which shall be  
84 based upon median wages, payroll taxes and fringe benefits paid to  
85 permanent staff nursing personnel of the same type at nursing home  
86 facilities in the same geographic region.

87 (b) The Commissioner of Social Services shall include in the rates an  
88 allowance for reasonable administrative expenses and a reasonable  
89 profit factor for a temporary nursing services agency, as determined by  
90 the commissioner, but in no event shall the profit factor exceed fifteen  
91 per cent. The commissioner may set higher rates for certain fixed-term  
92 nursing services personnel who work exclusively at a nursing home  
93 facility under a contract with such facility for a period of not less than  
94 ninety days.

95 (c) The Commissioner of Social Services may adopt regulations in  
96 accordance with the provisions of chapter 54 of the general statutes to  
97 implement the provisions of this section. Beginning January 15, 2024,  
98 temporary nursing services agencies shall submit to the commissioner  
99 annual cost reports, which may be subject to audit, that include data on  
100 average fees charged by such agencies to nursing home facilities in the  
101 state by type of nursing personnel such agencies supply to such facilities  
102 and wages paid and benefits provided to such nursing personnel. The  
103 commissioner shall consider such reports and annual nursing home  
104 facility cost reports, provided by such facilities to the commissioner  
105 pursuant to section 17b-340 of the general statutes, as amended by this  
106 act, when adjusting maximum rates temporary nursing services  
107 agencies may charge such facilities for nursing personnel.

108 Sec. 5. Subsection (a) of section 17b-340 of the 2022 supplement to the  
109 general statutes is repealed and the following is substituted in lieu  
110 thereof (*Effective July 1, 2022*):

111 (a) For purposes of this subsection, (1) a "related party" includes, but  
112 is not limited to, any company related to a chronic and convalescent  
113 nursing home through family association, common ownership, control

114 or business association with any of the owners, operators or officials of  
115 such nursing home; (2) "company" means any person, partnership,  
116 association, holding company, limited liability company or corporation;  
117 (3) "family association" means a relationship by birth, marriage or  
118 domestic partnership; and (4) "profit and loss statement" means the  
119 most recent annual statement on profits and losses finalized by a related  
120 party before the annual report mandated under this subsection. The  
121 rates to be paid by or for persons aided or cared for by the state or any  
122 town in this state to licensed chronic and convalescent nursing homes,  
123 to chronic disease hospitals associated with chronic and convalescent  
124 nursing homes, to rest homes with nursing supervision, to licensed  
125 residential care homes, as defined by section 19a-490, and to residential  
126 facilities for persons with intellectual disability that are licensed  
127 pursuant to section 17a-227 and certified to participate in the Title XIX  
128 Medicaid program as intermediate care facilities for individuals with  
129 intellectual disabilities, for room, board and services specified in  
130 licensing regulations issued by the licensing agency shall be determined  
131 annually, except as otherwise provided in this subsection by the  
132 Commissioner of Social Services, to be effective July first of each year  
133 except as otherwise provided in this subsection. Such rates shall be  
134 determined on a basis of a reasonable payment for such necessary  
135 services, which basis shall take into account as a factor the costs of such  
136 services. Cost of such services shall include reasonable costs mandated  
137 by collective bargaining agreements with certified collective bargaining  
138 agents or other agreements between the employer and employees,  
139 provided "employees" shall not include persons employed as managers  
140 or chief administrators or required to be licensed as nursing home  
141 administrators, and compensation for services rendered by proprietors  
142 at prevailing wage rates, as determined by application of principles of  
143 accounting as prescribed by said commissioner. Cost of such services  
144 shall not include amounts paid by the facilities to employees as salary,  
145 or to attorneys or consultants as fees, where the responsibility of the  
146 employees, attorneys, or consultants is to persuade or seek to persuade  
147 the other employees of the facility to support or oppose unionization.  
148 Nothing in this subsection shall prohibit inclusion of amounts paid for

149 legal counsel related to the negotiation of collective bargaining  
150 agreements, the settlement of grievances or normal administration of  
151 labor relations. The commissioner may, in the commissioner's  
152 discretion, allow the inclusion of extraordinary and unanticipated costs  
153 of providing services that were incurred to avoid an immediate negative  
154 impact on the health and safety of patients. The commissioner may, in  
155 the commissioner's discretion, based upon review of a facility's costs,  
156 direct care staff to patient ratio and any other related information, revise  
157 a facility's rate for any increases or decreases to total licensed capacity  
158 of more than ten beds or changes to its number of licensed rest home  
159 with nursing supervision beds and chronic and convalescent nursing  
160 home beds. The commissioner may, in the commissioner's discretion,  
161 revise the rate of a facility that is closing. An interim rate issued for the  
162 period during which a facility is closing shall be based on a review of  
163 facility costs, the expected duration of the close-down period, the  
164 anticipated impact on Medicaid costs, available appropriations and the  
165 relationship of the rate requested by the facility to the average Medicaid  
166 rate for a close-down period. The commissioner may so revise a facility's  
167 rate established for the fiscal year ending June 30, 1993, and thereafter  
168 for any bed increases, decreases or changes in licensure effective after  
169 October 1, 1989. Effective July 1, 1991, in facilities that have both a  
170 chronic and convalescent nursing home and a rest home with nursing  
171 supervision, the rate for the rest home with nursing supervision shall  
172 not exceed such facility's rate for its chronic and convalescent nursing  
173 home. All such facilities for which rates are determined under this  
174 subsection shall report on a fiscal year basis ending on September  
175 thirtieth. Such report shall be submitted to the commissioner by  
176 February fifteenth. Each for-profit chronic and convalescent nursing  
177 home that receives state funding pursuant to this section shall include  
178 in such annual report a profit and loss statement from each related party  
179 that receives from such chronic and convalescent nursing home fifty  
180 thousand dollars or more per year for goods, fees and services. No cause  
181 of action or liability shall arise against the state, the Department of Social  
182 Services, any state official or agent for failure to take action based on the  
183 information required to be reported under this subsection. The

184 commissioner may reduce the rate in effect for a facility that fails to  
185 submit a complete and accurate report on or before February fifteenth  
186 by an amount not to exceed ten per cent of such rate. If a licensed  
187 residential care home fails to submit a complete and accurate report, the  
188 department shall notify such home of the failure and the home shall  
189 have thirty days from the date the notice was issued to submit a  
190 complete and accurate report. If a licensed residential care home fails to  
191 submit a complete and accurate report not later than thirty days after  
192 the date of notice, such home may not receive a retroactive rate increase,  
193 in the commissioner's discretion. The commissioner shall, annually, on  
194 or before April first, report the data contained in the reports of such  
195 facilities on the department's Internet web site. For the cost reporting  
196 year commencing October 1, 1985, and for subsequent cost reporting  
197 years, facilities shall report the cost of using the services of any [nursing  
198 pool employee] nursing personnel supplied by a temporary nursing  
199 services agency by separating said cost into two categories, the portion  
200 of the cost equal to the salary of the employee for whom the [nursing  
201 pool employee] nursing personnel supplied by a temporary nursing  
202 services agency is substituting shall be considered a nursing cost and  
203 any cost in excess of such salary shall be further divided so that seventy-  
204 five per cent of the excess cost shall be considered an administrative or  
205 general cost and twenty-five per cent of the excess cost shall be  
206 considered a nursing cost, provided if the total [nursing pool] costs of a  
207 facility for nursing personnel supplied by a temporary nursing services  
208 agency in any cost year are equal to or exceed fifteen per cent of the total  
209 nursing expenditures of the facility for such cost year, no portion of  
210 [nursing pool] such costs in excess of fifteen per cent shall be classified  
211 as administrative or general costs. The commissioner, in determining  
212 such rates, shall also take into account the classification of patients or  
213 boarders according to special care requirements or classification of the  
214 facility according to such factors as facilities and services and such other  
215 factors as the commissioner deems reasonable, including anticipated  
216 fluctuations in the cost of providing such services. The commissioner  
217 may establish a separate rate for a facility or a portion of a facility for  
218 traumatic brain injury patients who require extensive care but not acute

219 general hospital care. Such separate rate shall reflect the special care  
220 requirements of such patients. If changes in federal or state laws,  
221 regulations or standards adopted subsequent to June 30, 1985, result in  
222 increased costs or expenditures in an amount exceeding one-half of one  
223 per cent of allowable costs for the most recent cost reporting year, the  
224 commissioner shall adjust rates and provide payment for any such  
225 increased reasonable costs or expenditures within a reasonable period  
226 of time retroactive to the date of enforcement. Nothing in this section  
227 shall be construed to require the Department of Social Services to adjust  
228 rates and provide payment for any increases in costs resulting from an  
229 inspection of a facility by the Department of Public Health. Such  
230 assistance as the commissioner requires from other state agencies or  
231 departments in determining rates shall be made available to the  
232 commissioner at the commissioner's request. Payment of the rates  
233 established pursuant to this section shall be conditioned on the  
234 establishment by such facilities of admissions procedures that conform  
235 with this section, section 19a-533 and all other applicable provisions of  
236 the law and the provision of equality of treatment to all persons in such  
237 facilities. The established rates shall be the maximum amount  
238 chargeable by such facilities for care of such beneficiaries, and the  
239 acceptance by or on behalf of any such facility of any additional  
240 compensation for care of any such beneficiary from any other person or  
241 source shall constitute the offense of aiding a beneficiary to obtain aid  
242 to which the beneficiary is not entitled and shall be punishable in the  
243 same manner as is provided in subsection (b) of section 17b-97.  
244 Notwithstanding any provision of this section, the Commissioner of  
245 Social Services may, within available appropriations, provide an interim  
246 rate increase for a licensed chronic and convalescent nursing home or a  
247 rest home with nursing supervision for rate periods no earlier than April  
248 1, 2004, only if the commissioner determines that the increase is  
249 necessary to avoid the filing of a petition for relief under Title 11 of the  
250 United States Code; imposition of receivership pursuant to sections 19a-  
251 542 and 19a-543; or substantial deterioration of the facility's financial  
252 condition that may be expected to adversely affect resident care and the  
253 continued operation of the facility, and the commissioner determines

254 that the continued operation of the facility is in the best interest of the  
255 state. The commissioner shall consider any requests for interim rate  
256 increases on file with the department from March 30, 2004, and those  
257 submitted subsequently for rate periods no earlier than April 1, 2004.  
258 When reviewing an interim rate increase request the commissioner  
259 shall, at a minimum, consider: (A) Existing chronic and convalescent  
260 nursing home or rest home with nursing supervision utilization in the  
261 area and projected bed need; (B) physical plant long-term viability and  
262 the ability of the owner or purchaser to implement any necessary  
263 property improvements; (C) licensure and certification compliance  
264 history; (D) reasonableness of actual and projected expenses; and (E) the  
265 ability of the facility to meet wage and benefit costs. No interim rate  
266 shall be increased pursuant to this subsection in excess of one hundred  
267 fifteen per cent of the median rate for the facility's peer grouping,  
268 established pursuant to subdivision (2) of subsection (f) of this section,  
269 unless recommended by the commissioner and approved by the  
270 Secretary of the Office of Policy and Management after consultation  
271 with the commissioner. Such median rates shall be published by the  
272 Department of Social Services not later than April first of each year. In  
273 the event that a facility granted an interim rate increase pursuant to this  
274 section is sold or otherwise conveyed for value to an unrelated entity  
275 less than five years after the effective date of such rate increase, the rate  
276 increase shall be deemed rescinded and the department shall recover an  
277 amount equal to the difference between payments made for all affected  
278 rate periods and payments that would have been made if the interim  
279 rate increase was not granted. The commissioner may seek recovery of  
280 such payments from any facility with common ownership. With the  
281 approval of the Secretary of the Office of Policy and Management, the  
282 commissioner may waive recovery and rescission of the interim rate for  
283 good cause shown that is not inconsistent with this section, including,  
284 but not limited to, transfers to family members that were made for no  
285 value. The commissioner shall provide written quarterly reports to the  
286 joint standing committees of the General Assembly having cognizance  
287 of matters relating to aging, human services and appropriations and the  
288 budgets of state agencies, that identify each facility requesting an

289 interim rate increase, the amount of the requested rate increase for each  
290 facility, the action taken by the commissioner and the secretary pursuant  
291 to this subsection, and estimates of the additional cost to the state for  
292 each approved interim rate increase. Nothing in this subsection shall  
293 prohibit the commissioner from increasing the rate of a licensed chronic  
294 and convalescent nursing home or a rest home with nursing supervision  
295 for allowable costs associated with facility capital improvements or  
296 increasing the rate in case of a sale of a licensed chronic and convalescent  
297 nursing home or a rest home with nursing supervision if receivership  
298 has been imposed on such home. For purposes of this section,  
299 "temporary nursing services agency" and "nursing personnel" have the  
300 same meaning as provided in section 1 of this act.

301 Sec. 6. Subdivision (1) of subsection (f) of section 17b-340 of the 2022  
302 supplement to the general statutes is repealed and the following is  
303 substituted in lieu thereof (*Effective July 1, 2022*):

304 (1) Allowable costs shall be divided into the following five cost  
305 components: (A) Direct costs, which shall include salaries for nursing  
306 personnel, related fringe benefits and [nursing pool] costs for nursing  
307 personnel supplied by a temporary nursing services agency; (B) indirect  
308 costs, which shall include professional fees, dietary expenses,  
309 housekeeping expenses, laundry expenses, supplies related to patient  
310 care, salaries for indirect care personnel and related fringe benefits; (C)  
311 fair rent, which shall be defined in accordance with subsection (f) of  
312 section 17-311-52 of the regulations of Connecticut state agencies; (D)  
313 capital-related costs, which shall include property taxes, insurance  
314 expenses, equipment leases and equipment depreciation; and (E)  
315 administrative and general costs, which shall include (i) maintenance  
316 and operation of plant expenses, (ii) salaries for administrative and  
317 maintenance personnel, and (iii) related fringe benefits. The  
318 commissioner may provide a rate adjustment for nonemergency  
319 transportation services required by nursing facility residents. Such  
320 adjustment shall be a fixed amount determined annually by the  
321 commissioner based upon a review of costs and other associated  
322 information. Allowable costs shall not include costs for ancillary

323 services payable under Part B of the Medicare program.

324 Sec. 7. Subdivision (4) of subsection (a) of section 17b-340d of the 2022  
325 supplement to the general statutes is repealed and the following is  
326 substituted in lieu thereof (*Effective July 1, 2022*):

327 (4) Allowable costs shall be divided into the following five cost  
328 components: (A) Direct costs, which shall include salaries for nursing  
329 personnel, related fringe benefits and [nursing pool] costs for nursing  
330 personnel supplied by a temporary nursing services agency; (B) indirect  
331 costs, which shall include professional fees, dietary expenses,  
332 housekeeping expenses, laundry expenses, supplies related to patient  
333 care, salaries for indirect care personnel and related fringe benefits; (C)  
334 fair rent, which shall be defined in regulations adopted in accordance  
335 with subsection (b) of this section; (D) capital-related costs, which shall  
336 include property taxes, insurance expenses, equipment leases and  
337 equipment depreciation; and (E) administrative and general costs,  
338 which shall include maintenance and operation of plant expenses,  
339 salaries for administrative and maintenance personnel and related  
340 fringe benefits. For (i) direct costs, the maximum cost shall be equal to  
341 one hundred thirty-five per cent of the median allowable cost of that  
342 peer grouping; (ii) indirect costs, the maximum cost shall be equal to one  
343 hundred fifteen per cent of the state-wide median allowable cost; (iii)  
344 fair rent, the amount shall be calculated utilizing the amount approved  
345 pursuant to section 17b-353; (iv) capital-related costs, there shall be no  
346 maximum; and (v) administrative and general costs, the maximum shall  
347 be equal to the state-wide median allowable cost. For purposes of this  
348 subdivision, "temporary nursing services agency" and "nursing  
349 personnel" have the same meaning as provided in section 1 of this act.

350 Sec. 8. Subsection (a) of section 51-344a of the 2022 supplement to the  
351 general statutes is repealed and the following is substituted in lieu  
352 thereof (*Effective July 1, 2022*):

353 (a) Whenever the term "judicial district of Hartford-New Britain" or  
354 "judicial district of Hartford-New Britain at Hartford" is used or referred  
355 to in the following sections of the general statutes, it shall be deemed to

356 mean or refer to the judicial district of Hartford on and after September  
 357 1, 1998: Sections 1-205, 1-206, 2-48, 3-21a, 3-62d, 3-70a, 3-71a, 4-61, 4-160,  
 358 4-164, 4-177b, 4-180, 4-183, 4-197, 5-202, 5-276a, 8-30g, 9-7a, 9-7b, 9-369b,  
 359 10-153e, 12-208, 12-237, 12-268l, 12-312, 12-330m, 12-405k, 12-422, 12-448,  
 360 12-454, 12-456, 12-463, 12-489, 12-522, 12-554, 12-565, 12-572, 12-586f, 12-  
 361 597, 12-730, 13b-34, 13b-235, 13b-315, 13b-375, 14-57, 14-66, 14-67u, 14-  
 362 110, 14-195, 14-311, 14-311c, 14-324, 14-331, 15-125, 15-126, 16-41, 16a-5,  
 363 17b-60, 17b-100, 17b-238, 17b-531, 19a-85, 19a-86, [19a-123d,] 19a-425,  
 364 19a-498, 19a-517, 19a-526, 19a-633, 20-12f, 20-13e, 20-29, 20-40, 20-45, 20-  
 365 59, 20-73a, 20-86f, 20-99, 20-114, 20-133, 20-154, 20-156, 20-162p, 20-192,  
 366 20-195p, 20-202, 20-206c, 20-227, 20-238, 20-247, 20-263, 20-271, 20-307,  
 367 20-341f, 20-363, 20-373, 20-404, 20-414, 21a-55, 21a-190i, 22-7, 22-228, 22-  
 368 248, 22-254, 22-320d, 22-326a, 22-344b, 22-386, 22a-6b, 22a-7, 22a-16, 22a-  
 369 30, 22a-34, 22a-53, 22a-60, 22a-62, 22a-63, 22a-66h, 22a-106a, 22a-119,  
 370 22a-180, 22a-182a, 22a-184, 22a-220a, 22a-220d, 22a-225, 22a-226, 22a-  
 371 226c, 22a-227, 22a-250, 22a-255l, 22a-276, 22a-310, 22a-342a, 22a-344, 22a-  
 372 361a, 22a-374, 22a-376, 22a-408, 22a-430, 22a-432, 22a-438, 22a-449f, 22a-  
 373 449g, 22a-459, 23-5e, 23-65m, 25-32e, 25-36, 28-5, 29-143j, 29-158, 29-161z,  
 374 29-323, 30-8, 31-109, 31-249b, 31-266, 31-266a, 31-270, 31-273, 31-284, 31-  
 375 285, 31-339, 31-355a, 31-379, 35-3c, 35-42, 36a-186, 36a-187, 36a-471a, 36a-  
 376 494, 36a-587, 36a-647, 36a-684, 36a-718, 36a-807, 36b-26, 36b-27, 36b-30,  
 377 36b-50, 36b-71, 36b-72, 36b-74, 36b-76, 38a-41, 38a-52, 38a-134, 38a-139,  
 378 38a-140, 38a-147, 38a-150, 38a-185, 38a-209, 38a-225, 38a-226b, 38a-241,  
 379 38a-337, 38a-470, 38a-620, 38a-657, 38a-687, 38a-774, 38a-776, 38a-817,  
 380 38a-843, 38a-868, 38a-906, 38a-994, 42-103c, 42-110d, 42-110k, 42-110p,  
 381 42-182, 46a-56, 46a-100, 47a-21, 49-73, 51-44a, 51-81b, 51-194, 52-146j, 53-  
 382 392d and 54-211a.

383 Sec. 9. Sections 19a-123, 19a-123b and 19a-123d of the general statutes  
 384 are repealed. (Effective July 1, 2022)

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	New section
Sec. 2	July 1, 2022	New section
Sec. 3	July 1, 2022	New section

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Sec. 4	July 1, 2022	New section
Sec. 5	July 1, 2022	17b-340(a)
Sec. 6	July 1, 2022	17b-340(f)(1)
Sec. 7	July 1, 2022	17b-340d(a)(4)
Sec. 8	July 1, 2022	51-344a(a)
Sec. 9	July 1, 2022	Repealer section

**Statement of Legislative Commissioners:**

In Section 1(d)(2)(C), "state of permanent residency" was changed to "the states of the permanent residences" for consistency; in Section 2(a), "a health care facility" was changed to "each health care facility" for clarity; and in Section 3(a), "nursing personnel service was" was changed to "temporary nursing services were" for consistency.

**AGE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Public Health, Dept.	GF - Revenue Gain	See Below	See Below
Social Services, Dept.	GF - Potential	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a revenue gain to the Department of Public Health (DPH) associated with registration fees for temporary nursing services. The revenue gain is dependent on the fee established (up to \$750 annually) and the number of registrations.

The bill also requires the Department of Social Services (DSS), in consultation with DPH, to set the maximum rates temporary nursing services agencies may charge nursing homes by type of nursing personnel. To the extent this impacts the level of Medicaid reimbursement provided to nursing homes for staffing costs, the state could be impacted. Maximum rates must be established by 1/1/23.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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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***

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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)