

January 31, 2022

The Honorable Susan Concannon, Chairperson
House Committee on Children and Seniors
Statehouse, Room 152-S
Topeka, Kansas 66612

Dear Representative Concannon:

SUBJECT: Fiscal Note for HB 2524 by House Committee on Children and Seniors

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2524 is respectfully submitted to your committee.

HB 2524 would require the Kansas Department for Aging and Disability Services (KDADS) to regulate supplemental nursing services agencies, establish a system of complaints against supplemental nursing services agencies and their employees, and create the Supplemental Nursing Services Agency Regulation Fund. To obtain and retain registration, a supplemental nursing services agency would be required to:

1. Document that each temporary employee provided to healthcare facilities currently would meet the minimum licensing, training, and continuing education standards for the position in which the employee would be working;
2. Comply with all applicable legal requirements relating to the qualifications of personnel employed in healthcare facilities, including the performance of criminal history record checks in accordance with K.S.A. 39-970, and amendments thereto;
3. Not restrict, in any manner, the employment opportunities of its employees;
4. Carry medical malpractice insurance coverage for the loss, damage or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of healthcare services by the supplemental nursing services agency or by any employee of the agency;
5. Carry a fidelity bond or fidelity insurance in the amount of at least \$10,000;

6. Maintain insurance coverage for workers compensation for all nurses and nurse aides provided or procured by the agency;
7. Comply with the applicable requirements of the Kansas withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto;
8. In any contract with any employee or healthcare facility, not require the payment of liquidated damages, employment fees or other compensation if any such employee is hired as a permanent employee of a healthcare facility;
9. Document that each temporary employee provided to healthcare facilities is an employee of the agency and is not an independent contractor; and
10. Retain all records for five calendar years and organize such records so that they can be made immediately available to the Secretary upon request.

KDADS would be responsible for ensuring that supplemental nursing services agency rates are capped at a rate no higher than 150.0 percent of the sum of the weighted average wage rate of the same at Adult Care Homes and Long-Term Care Units. KDADS would be responsible for setting the capped rate annually.

Failure to comply with the above requirements would subject a supplemental nursing services agency to revocation or nonrenewal of its registration. An original registration or renewal application could not be denied or revoked without a hearing held pursuant to the Kansas Administrative Procedure Act within 60 days after the KDADS' Secretary received a request for hearing. The bill would also not allow for a continuance of the 60 days for any reason.

Estimated State Fiscal Effect				
	FY 2022 SGF	FY 2022 All Funds	FY 2023 SGF	FY 2023 All Funds
Revenue	--	--	--	\$50,875
Expenditure	--	--	\$648,188	\$699,063
FTE Pos.	--	--	--	4.00

KDADS indicates that enactment of HB 2524 would require an additional 4.00 FTE positions at KDADS to support the monitoring and review of additional regulation requirements of supplemental nursing agencies in the state. Positions would include a Licensing Reviewer, complaint line support position, Attorney, and an Auditor. KDADS estimates expenditures of \$389,438 from the State General Fund for these positions. Costs include salary, fringe, and other operating expenses.

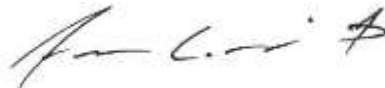
KDADS estimates contractual services costs of \$309,625 from all funding sources, including \$258,750 from the State General Fund. These contractual services costs would be

anticipated to cover contracted work for analytics, information technology system development and maintenance, and Office of Administrative Hearings costs.

KDADS estimates it would collect \$50,875 of supplemental nursing registration fees to be deposited into the Supplemental Nursing Services Agency Regulation Fund. The revenue is based on assumed collection of 25 supplemental nursing registration fees of \$2,035 annually.

KDADS indicates that in the long-term, setting a price ceiling for an industry that is competing nationwide could leave the state's healthcare system with a lack of Registered Nurses, Licensed Practical Nurses, and Certified Nursing Assistants in both private, public, and not for profit settings, including state agencies that employ licensed/certified staff. The bill could potentially result in a wage disparity between direct care staff in adult care homes, versus any other health care setting, as Certified Nursing Assistants requirements are only in adult care homes. Any fiscal effect associated with HB 2524 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Leigh Keck, Aging & Disability Services
Cheryl Whelan, Administrative Hearings