

February 6, 2023

The Honorable Brenda Landwehr, Chairperson
House Committee on Health and Human Services
300 SW 10th Avenue, Room 112-N
Topeka, Kansas 66612

Dear Representative Landwehr:

SUBJECT: Fiscal Note for HB 2265 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2265 is respectfully submitted to your committee.

HB 2265 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 would currently 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;
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; and
11. Submit a quarterly report for each facility that participates in Medicare or Medicaid and has a contract with the supplemental nursing services agency showing the average amount charged to the facility for each agency worker and the average amount paid to agency workers.

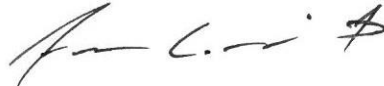
Failure to comply with the above requirements would subject a supplemental nursing services agency to revocation or nonrenewal of its registration. An original registration or renewal application could not be denied or revoked without a hearing held pursuant to the Kansas Administrative Procedure Act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

Estimated State Fiscal Effect				
	FY 2023 SGF	FY 2023 All Funds	FY 2024 SGF	FY 2024 All Funds
Revenue	--	--	--	\$50,875
Expenditure	--	--	\$648,188	\$699,063
FTE Pos.	--	--	--	4.00

KDADS indicates that HB 2265 would require an additional 4.00 FTE positions to support the monitoring and review of additional regulation requirements of supplemental nursing agencies in the state. Positions would include a Licensing Reviewer, a complaint line support position, an 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 services agency registration fees to be deposited into the Supplemental Nursing Services Agency Regulation Fund. The revenue estimate is based on assumed collection of 25 supplemental nursing registration fees of \$2,035 annually. Any fiscal effect associated with HB 2265 is not reflected in *The FY 2024 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, Department for Aging & Disability Services