

# HOUSE BILL REPORT

## SSB 5547

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**As Passed House:**

April 5, 2023

**Title:** An act relating to transparency for nursing pools that provide health care personnel to hospitals and long-term care facilities.

**Brief Description:** Concerning nursing pool transparency.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Robinson, Muzzall, Hasegawa and Mullet).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 3/21/23, 3/24/23 [DP].

**Floor Activity:**

Passed House: 4/5/23, 98-0.

**Brief Summary of Substitute Bill**

- Requires nursing pool operators to complete an annual registration with the Department of Health (Department), and disclose corporate structure and ownership, if any.
- Establishes annual reporting requirements for certain nursing pools and requires the Department to produce an annual report including the aggregated submitted information.
- Establishes additional requirements relating to nursing pool contracts.

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**HOUSE COMMITTEE ON HEALTH CARE & WELLNESS**

**Majority Report:** Do pass. Signed by 17 members: Representatives Riccelli, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Barnard, Bronoske, Davis, Graham, Harris, Macri, Maycumber,

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Mosbrucker, Orwall, Simmons, Stonier, Thai and Tharinger.

**Staff:** Emily Poole (786-7106).

**Background:**

Nursing pools are individuals 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.

Registration.

A person who operates a nursing pool is required to register the pool with the Department of Health (Department), and each separate location of the business of a nursing pool must have a separate registration. The Department is required to establish administrative procedures, administrative requirements, and associated fees. The issuance and denial of registration and the discipline of nursing pools are governed by the Uniform Disciplinary Act. State agencies may not permit reimbursement for the use of temporary health care personnel from nursing pools that are not registered unless the individuals are directly retained by a health care facility.

Required Documentation.

A nursing pool is required to document that each temporary employee or referred independent contractor provided to health care facilities meets the applicable minimum credentialing requirements.

Background Checks.

A nursing pool is required to conduct a criminal background check on all employees and independent contractors prior to employment or referral, pursuant to requirements adopted by the Department and by the Department of Social and Health Services regarding individuals who provide care and treatment to vulnerable adults.

**Summary of Bill:**

Registration.

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 is required to register the pool with the Department annually and disclose corporate structure and ownership, if any, which the Department must make publicly available.

The individuals who operate nursing pools are responsible for all fees or assessments levied by the state to cover costs associated with registration requirements.

Nursing Pool Reporting Requirements.

Nursing pools are required to report to the Department annually the following information, by county in which the health care or long-term care personnel performed the work, and by the type of hospital, nursing home, assisted living facility, enhanced services facility, or adult family home:

- the average amount charged by the nursing pool for health care or long-term care personnel by license type;
- the average amount paid by the nursing pool to health care or long-term care personnel by license type;
- the average amount of labor-related costs paid by the nursing pool by health care or long-term care personnel by license type;
- the number of placements made within 25 miles and 50 miles of the health care or long-term care personnel's residence; and
- the total number of placements made by the nursing pool.

The Department is required to produce an annual report that includes the above information in the aggregate, to be made available on the Department's website.

Nursing pools must also provide to the Department annually the average total hours worked and billed by nursing category and as aggregated by nursing home, assisted living facility, enhanced services facility, or adult family home facility type.

#### Required Documentation.

A nursing pool is required to document that each health care or long-term care personnel provided to health care facilities meets the applicable minimum credentialing requirements, which are specified to include 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.

#### Background Checks.

A nursing pool is required to conduct a background check on all health care and long-term care personnel, including as required by law for long-term care workers. A nursing pool must also conduct an exclusion verification, as required under federal law, to confirm if an individual is prohibited from participating in a federally funded health care program.

#### Additional Requirements.

A nursing pool is required to provide a nursing home, assisted living facility, enhanced services facility, or adult family home written notice of contract changes, including but not limited to, availability or charges for services, items, or activities, at least 90 days in advance.

A nursing pool may not, in any contract with health care personnel or a nursing home, assisted living facility, enhanced services facility, or adult family home that lasts longer than 13 weeks, require the payment of liquidated damages, employment fees, or other compensation if health care or long-term care personnel are hired as permanent employees

by the nursing home, assisted living facility, enhanced services facility, or adult family home.

"Health care personnel" means a registered nurse, licensed practical nurse, surgical technologist, diagnostic radiologic technologist, cardiovascular invasive specialist, respiratory care practitioner, or a nursing assistant-certified who is a temporary employee or a referred independent contractor of a nursing pool.

"Long-term care workers" means all individuals who provide paid, hands-on personal care services for the elderly or persons with disabilities, including individual providers of home care services, direct care workers employed by home care agencies or a consumer directed employer, and providers of home care services to persons with developmental disabilities.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The nurse staffing shortage reached crisis levels during the pandemic. Travel nurse agencies have been used more and more during the pandemic, and hospitals continue to use travel nurses for staffing. When providers are short on employees, they call on nursing pools for additional support. Nursing pools are a critical component of the long-term care system. Some facilities have up to 100 percent of positions filled by nursing pool personnel. This bill will help the state understand this portion of the nursing workforce. This bill is trying to provide better information about travel nurse agencies, including who they are and how many nurses they employ. Providers have become a captive audience to nursing pools, and the need for increased oversight and transparency is clear. Nursing pools are subject to minimal requirements. The number of hours of care provided by nursing pools is increasing, and their rates have skyrocketed. Nursing pools increase contract rates with little to no advance. Nursing pools recruit employees away from health care facilities, then send them back to the facilities at higher rates. When nursing pool personnel want to become full-time employees of health care facilities, they are charged exorbitant fees by nursing pools. There should be more responsibility put on nursing pools to make sure their staff is fully certified. Nursing pools are designed to provide short-term solutions. Hiring temporary staff employed by nursing pools does not allow for continuity of care and for patients to build relationships with their providers. Medicaid rates need to be funded so that providers can compete for staff, but in the meantime, oversight needs to improve. This bill will help hospitals make informed decisions about the use of staffing agencies.

(Opposed) None.

**Persons Testifying:** Senator June Robinson, prime sponsor; Carma Matti-Jackson, Washington Health Care Association; Alyssa Odegaard, LeadingAge Washington; and Ashlen Strong, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** None.