

HOUSE No. 3444

By Mr. Rogers of Framingham, petition of Andrew J. Rogers, Jr., that provision be made for the registration of nursing pools and establishing maximum reimbursement rates therefor. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-One.

AN ACT RELATING TO HEALTH, AUTHORIZING THE REGISTRATION OF NURSING POOLS, IMPOSING REQUIREMENTS FOR REGISTRATION, REQUIRING THE PROMULGATION OF RULES, PROVIDING PENALTIES FOR VIOLATIONS, REQUIRING THE ESTABLISHMENT OF MAXIMUM REIMBURSEMENT RATES FOR NURSING POOLS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter
2 112 the following chapter:—

Chapter 112A

4 *Section 1.* As used in sections one to three, the terms defined in
5 this section have the meanings given them.

6 "Nursing pool" means any person, firm, corporation, partner-
7 ship, or association engaged for hire in the business of providing or
8 procuring temporary employment in health care facilities for medi-
9 cal personnel, including, but not limited to, nurses, nursing assist-
10 ants, nurses aids and orderlies. "Nursing pool" does not include an
11 individual who only engages in providing his or her own services on
12 a temporary basis to health care facilities.

13 "Commissioner" means the commissioner of public health.

14 "Person" includes an individual, firm, corporation, partnership
15 or association.'

16 "Health care facility" means any health care facility licensed
17 pursuant to Massachusetts statutes.

18 *Section 2.* A person who operates a nursing pool may register
19 the pool with the commissioner. Each separate location of the
20 business of a nursing pool shall have a separate registration.

21 The commissioner, by rule, shall establish forms and procedures
22 for the processing of nursing pool registration applications, includ-
23 ing the payment of a reasonable registration fee. An application for
24 a nursing pool registration shall include at least the following
25 information:

26 (a) The names and addresses of the owner or owners of the
27 nursing pool;

28 (b) If the owner is a corporation, copies of its articles of incorpo-
29 ration and current by-laws, together with the names and addresses
30 of its officers and directors; and

31 (c) Any other relevant information which the commissioner
32 determines is necessary to properly evaluate an application for
33 registration.

34 A registration issued by the commissioner in accordance with
35 this section shall remain effective for a period of one year from the
36 date of its issuance unless the registration is revoked or suspended
37 pursuant to section three, subdivision three, or unless the nursing
38 pool is sold or ownership or management is transferred. When a
39 nursing pool is sold or ownership or management is transferred,
40 the registration of the nursing pool shall be voided and the new
41 owner or operator may apply for a new registration.

42 *Section 3.* The commissioner, by rule, shall establish minimum
43 standards for the registration and operation of a nursing pool.
44 These rules shall be designed to protect the public's right to high
45 quality health care by assuring that nursing pools employ compe-
46 tent and qualified nursing personnel, and that such nursing person-
47 nel are provided to health care facilities in a way to meet the needs
48 of residents and patients.

49 (a) The nursing pool shall document that each temporary em-
50 ployee provided to health care facilities currently meets the min-
51 imum licensing, training, and continuing education standards for
52 the position in which he or she will be working;

53 (b) The nursing pool shall comply with all pertinent regulations
54 of the department relating to the health and other qualifications of
55 personnel employed in health care facilities;

56 (c) The nursing pool shall not require, as a condition of employ-
57 ment, that employees of the nursing pool recruit new employees for
58 the nursing pool from among the permanent employees of the
59 health care facility to which the nursing pool employee has been
60 assigned;

61 (d) The nursing pool shall not restrict in any manner the em-
62 ployment opportunities of its employees; and

63 (e) The nursing pool shall not, in any contract with any em-
64 ployee or health care facility, require the payment of liquidated
65 damages, employment fees, or other compensation if the employee
66 is hired as a permanent employee of a health care facility.

67 (f) The nursing pool shall carry medical malpractice insurance
68 to insure against the loss, damage or expense incident to a claim
69 arising out of the death or injury of any person as the result of
70 negligence or malpractice in the provision of health care services by
71 the nursing pool or by any employee of the nursing pool.

72 The Commissioner shall monitor usage of nursing pool services
73 to determine whether there is an effect on quality of care where the
74 pools' services are used.

75 The Commissioner, by rule, shall establish appropriate penalties
76 for the violation of sections 1 to 3, including fines and registration
77 suspension or revocation.

78 *Section 4.* Massachusetts Statutes, section 32 of chapter 6A, is
79 amended by adding a subdivision to read:

80 (a) The Rate Setting Commission, by rule, shall establish reason-
81 able maximum rates for reimbursement pursuant to this chapter
82 for personnel of nursing pools registered pursuant to sections 1 to 3.
83 Registered nursing pools may not bill or receive payments from
84 health care facilities at a rate higher than the maximum rate
85 established pursuant to this section. The maximum rate shall
86 include all charges for administrative fees, contract fees, or other
87 special charges in addition to the hourly rates for the temporary
88 nursing pool personnel supplied to a health care facility.

89 (b) No rule of the state agency shall allow reimbursement for the
90 use of personnel from nursing pools which are not registered
91 pursuant to sections 1 to 3. However, no rule of the state agency
92 shall prohibit the use of personnel from an unregistered nursing
93 pool.

94 *Section 5.* (EFFECTIVE DATE.) Sections 1 to 3 are effective
95 the day following final enactment. Section 4 is effective