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FISCAL IMPACT REPORT

SPONSOR <u>Stefanics/Chandler</u>	LAST UPDATED <u>2/23/23</u> ORIGINAL DATE <u>2/3/23</u>
SHORT TITLE <u>Death Pronouncements By Nurses</u>	BILL NUMBER <u>Senate Bill 168/aSHPAC/aSJC</u>
ANALYST <u>Klundt</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From
 Board of Nursing (BON)
 Aging and Long-Term Services Department (ALTSD)
 Department of Health (DOH)-Declined Response

SUMMARY

Synopsis of SJC amendment to Senate Bill 168

The Senate Judiciary Committee amendment for SB168 struck the SHPAC amendment 2 and on page 3 lines 16 strikes “a registers nurse contracted by.”

Synopsis of SHPAC amendment to Senate Bill 168

The Senate Health and Public Affairs Committee amendment to SB168 changed language within the bill from “contracted” nurses to “employed” nurses within hospice agencies to pronounce a death due to natural causes.

Synopsis of Original Bill

Senate Bill 168 (SB168) adds a registered nurse within a hospice agency to those who can pronounced a patient’s death. The bill delineates death pronouncement from death certification. Death certification is only performed by a provider.

FISCAL IMPLICATIONS

No fiscal impact was reported or identified at this time.

SIGNIFICANT ISSUES

The Board of Nursing reported all hospice agencies will need a competency training and procedure for the registered nurse.

The Aging and Long-Term Services Department (ALTSD) reported expanding the types of nurses who may make death pronouncements in nursing homes will provide nursing homes additional options to ensure pronouncements are performed in a swift and dignified manner without unnecessary delay or disruption to families of deceased residents and other residents of the facility. Under existing law, only registered nurses employed by the nursing home are permitted to make death pronouncements. The department believes this is often a barrier for nursing homes. Nursing facilities often rely on contracted registered nurses to meet minimum staffing requirements because staffing shortages have increased tremendously since the Covid-19 pandemic. In instances when nursing facilities do not have staff available legally permitted to make a death pronouncement, facilities have reported the need to rely on less favorable measures, such as the use of emergency medical services—resulting in unnecessary disruption for other residents, delays in pronouncement, and the use of additional, costly resources that may otherwise have been avoided.

ALTSD also stated paragraph D of the existing statute, Section 24-14-20, specifically references registered nurses who are employees of the nursing home facility. The language of the proposed bill does not require the registered nurse to be employed by the hospice agency, does not require a direct relationship between the hospice agency and the facility, or require the resident who needs a death pronouncement be under the care of the hospice agency. This lack of additional safeguards may result in decreased accountability, which could result in an increased risk of inappropriate attribution of death to natural causes.

ALTSD also reported registered nurses, including those contracted by a facility, are qualified to complete the physical assessment required to pronounce death. SB168 increases the likelihood nursing facility residents who die from natural causes may have their deaths pronounced in a swift and dignified manner by expanding who is legally allowed to make a death pronouncement in a nursing facility. Additionally, safeguards that exist in the current statute remain in this proposed legislation, including that the nurse “shall have access to the medical history of the case and view the deceased at or after death” and that the death “shall be pronounced pursuant to procedures or facility protocols prescribed by the hospital for patients or by the physician who is the medical director of the nursing home for residents.”

TECHNICAL ISSUES

ALTSD reported the following technical issues:

As written, SB168 states that a registered nurse contracted by a hospice agency may pronounce the death of a resident. It does not require employment by the hospice agency, which is inconsistent with the other designated registered nurses in this subsection.

The proposed legislation does not speak to whether the resident must be in the care of the hospice agency if the registered nurse working on behalf of the hospice agency makes the death pronouncement.

It is unclear if a registered nurse working on behalf of the hospice agency is beholden to procedures of facility protocols prescribed by the physician who is the medical director of the nursing home for residents.

KK/al/hg/ne/al