

AMENDED IN ASSEMBLY MAY 2, 2001  
AMENDED IN ASSEMBLY MARCH 28, 2001  
CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1212**

**Introduced by Assembly Member Shelley**

February 23, 2001

---

---

An act to amend Sections 1250, 1265, 1267.5, 1328, 1331, 1337.1, 1337.3, 1417.3, 1418.91, 1420, 1421.2, 1422.5, 1423.5, 1428.1, 1432, and 1438 of, and to add Section 1250.6 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1212, as amended, Shelley. Health facilities.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is subject to criminal sanction.

Existing law authorizes and regulates the formation and operation of limited liability companies to engage in any lawful business activity.

This bill would provide that any requirement placed upon, or reference to, a corporation in the provisions regulating health facilities, shall also apply to a limited liability company.

Existing law requires applicants for licensure as a health facility, for approval as a special service, or for approval to manage a health facility currently licensed as a skilled nursing or intermediate care facility to file an application containing certain information, including evidence satisfactory to the department that the applicant possesses financial resources sufficient to operate the facility for at least 45 days.

This bill would exempt a management company from the requirement to provide this information.

Existing law requires an applicant to operate a skilled nursing or intermediate care facility to disclose to the state department certain information regarding general partners, corporate directors and officers, and beneficial ownership interests upon initial application for licensure and thereafter within 30 calendar days of a change in the information.

Existing law requires that this information be made available to the public upon request, and included in the public file of the facility and the department's automated certification licensing administration information management system.

This bill would provide that the latter requirement to include the information in the department's automated system shall commence July 1, 2002.

Existing law limits the liability of a receiver appointed to operate a long-term health care facility to damages resulting from gross negligence in the operation of the facility or intentional tortious acts and only those occurrences that are the result of the licensee's conduct. Existing law limits the liability of the state to damages resulting from negligence of such a receiver.

This bill would extend these liability provisions to apply to a temporary manager appointed to operate certain nursing facilities.

Existing law specifies procedures for the appointment of a court appointed receiver to manage a long-term health care facility. Existing law prohibits the management of a long-term health care facility operated by a receiver from being returned to the licensee and designated persons.

This bill would allow the facility to be returned to the licensee and the designated persons if certain conditions are met.

Under existing law, if a long-term health care facility does not agree to the appointment of a temporary manager, and the department successfully obtains a court-appointed receiver, management of the facility may only be returned if certain conditions are met.

This bill would delete this provision.

Existing law requires the department to prepare and maintain a list of approved training programs for nurse assistant certification, and requires a skilled nursing and intermediate care facility to adopt an approved precertification training program. Existing law requires that these training programs consist of a specified number of hours of



classroom training, and supervised and on-the-job training clinical practice. Existing law requires that 4 hours of the supervised and on-the-job training clinical practice address the special needs of persons with specified developmental and mental disorders.

This bill would require that 2 hours of the classroom training address the special needs of persons with specified developmental and mental disorders. The bill would revise the supervision requirements for the supervised and on-the-job training clinical practice.

Existing law requires the department to promote quality of care and life in long-term health care facility services through specific activities.

This bill would revise these activities.

Existing law requires the department, within 10 working days of the completion of a complaint investigation regarding a long-term health care facility, to notify the complainant in writing of the department's determination.

This bill would extend this notification requirement of the department to the licensee of the facility.

Existing law provides for the Skilled Nursing Facility Financial Solvency Advisory Board, which consists of the director and 7 members appointed by the director who are required to have training and experience in various areas or fields.

This bill would revise the training and experience requirements.

Existing law requires the department to implement a consumer information service system regarding long-term care facilities.

This bill would revise the information the system is required to contain.

Existing law requires the department to provide, on or before October 1 of each year, to the Legislature a summary of federal enforcement actions taken against nursing facilities during the previous fiscal year.

Existing law requires the department to review the effectiveness of the enforcement system in maintaining the quality of care provided by long-term health care facilities and submit a specified report to the Legislature on or before December 1, 2001, and annually thereafter.

This bill would require that the summary be provided instead, on or before December 1 of each year, and would require that it also include state enforcement actions as specified under the bill. The bill would require that the summary of federal and state enforcement actions be combined with the report on the effectiveness of the enforcement system into a single report.



Existing law prohibits a licensee of a long-term care facility from discriminating or retaliating in any manner against any patient or employee in its facility based on the presentation of a grievance or complaint or activities related to a specified investigation or proceeding at the facility.

This bill would extend this prohibition to apply to discriminating or retaliating against any complainant, as defined under the bill. Because the bill would extend this prohibition applicable to long-term care facilities, it would change the definition of a crime thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1250 of the Health and Safety Code is  
2 amended to read:

3 1250. As used in this chapter, "health facility" means any  
4 facility, place, or building that is organized, maintained, and  
5 operated for the diagnosis, care, prevention, and treatment of  
6 human illness, physical or mental, including convalescence and  
7 rehabilitation and including care during and after pregnancy, or for  
8 any one or more of these purposes, for one or more persons, to  
9 which the persons are admitted for a 24-hour stay or longer, and  
10 includes the following types:

11 (a) "General acute care hospital" means a health facility  
12 having a duly constituted governing body with overall  
13 administrative and professional responsibility and an organized  
14 medical staff that provides 24-hour inpatient care, including the  
15 following basic services: medical, nursing, surgical, anesthesia,  
16 laboratory, radiology, pharmacy, and dietary services. A general  
17 acute care hospital may include more than one physical plant  
18 maintained and operated on separate premises as provided in  
19 Section 1250.8. A general acute care hospital that exclusively



1 provides acute medical rehabilitation center services, including at  
2 least physical therapy, occupational therapy, and speech therapy,  
3 may provide for the required surgical and anesthesia services  
4 through a contract with another acute care hospital. In addition, a  
5 general acute care hospital that, on July 1, 1983, provided required  
6 surgical and anesthesia services through a contract or agreement  
7 with another acute care hospital may continue to provide these  
8 surgical and anesthesia services through a contract or agreement  
9 with an acute care hospital.

10 A “general acute care hospital” includes a “rural general acute  
11 care hospital.” However, a “rural general acute care hospital”  
12 shall not be required by the department to provide surgery and  
13 anesthesia services. A “rural general acute care hospital” shall  
14 meet either of the following conditions:

15 (1) The hospital meets criteria for designation within peer  
16 group six or eight, as defined in the report entitled Hospital Peer  
17 Grouping for Efficiency Comparison, dated December 20, 1982.

18 (2) The hospital meets the criteria for designation within peer  
19 group five or seven, as defined in the report entitled Hospital Peer  
20 Grouping for Efficiency Comparison, dated December 20, 1982,  
21 and has no more than 76 acute care beds and is located in a census  
22 dwelling place of 15,000 or less population according to the 1980  
23 federal census.

24 (b) “Acute psychiatric hospital” means a health facility having  
25 a duly constituted governing body with overall administrative and  
26 professional responsibility and an organized medical staff that  
27 provides 24-hour inpatient care for mentally disordered,  
28 incompetent, or other patients referred to in Division 5  
29 (commencing with Section 5000) or Division 6 (commencing with  
30 Section 6000) of the Welfare and Institutions Code, including the  
31 following basic services: medical, nursing, rehabilitative,  
32 pharmacy, and dietary services.

33 (c) “Skilled nursing facility” means a health facility that  
34 provides skilled nursing care and supportive care to patients whose  
35 primary need is for availability of skilled nursing care on an  
36 extended basis.

37 (d) “Intermediate care facility” means a health facility that  
38 provides inpatient care to ambulatory or nonambulatory patients  
39 who have recurring need for skilled nursing supervision and need



1 supportive care, but who do not require availability of continuous  
2 skilled nursing care.

3 (e) “Intermediate care facility/developmentally disabled  
4 habilitative” means a facility with a capacity of 4 to 15 beds that  
5 provides 24-hour personal care, habilitation, developmental, and  
6 supportive health services to 15 or fewer developmentally  
7 disabled persons who have intermittent recurring needs for  
8 nursing services, but have been certified by a physician and  
9 surgeon as not requiring availability of continuous skilled nursing  
10 care.

11 (f) “Special hospital” means a health facility having a duly  
12 constituted governing body with overall administrative and  
13 professional responsibility and an organized medical or dental  
14 staff that provides inpatient or outpatient care in dentistry or  
15 maternity.

16 (g) “Intermediate care facility/developmentally disabled”  
17 means a facility that provides 24-hour personal care, habilitation,  
18 developmental, and supportive health services to developmentally  
19 disabled clients whose primary need is for developmental services  
20 and who have a recurring but intermittent need for skilled nursing  
21 services.

22 (h) “Intermediate care facility/developmentally  
23 disabled—nursing” means a facility with a capacity of 4 to 15 beds  
24 that provides 24-hour personal care, developmental services, and  
25 nursing supervision for developmentally disabled persons who  
26 have intermittent recurring needs for skilled nursing care but have  
27 been certified by a physician and surgeon as not requiring  
28 continuous skilled nursing care. The facility shall serve medically  
29 fragile persons who have developmental disabilities or  
30 demonstrate significant developmental delay that may lead to a  
31 developmental disability if not treated.

32 (i) (1) “Congregate living health facility” means a residential  
33 home with a capacity, except as provided in paragraph (4), of no  
34 more than six beds, that provides inpatient care, including the  
35 following basic services: medical supervision, 24-hour skilled  
36 nursing and supportive care, pharmacy, dietary, social,  
37 recreational, and at least one type of service specified in paragraph  
38 (2). The primary need of congregate living health facility residents  
39 shall be for availability of skilled nursing care on a recurring,  
40 intermittent, extended, or continuous basis. This care is generally



1 less intense than that provided in general acute care hospitals but  
2 more intense than that provided in skilled nursing facilities.

3 (2) Congregate living health facilities shall provide one of the  
4 following services:

5 (A) Services for persons who are mentally alert, physically  
6 disabled persons, who may be ventilator dependent.

7 (B) Services for persons who have a diagnosis of terminal  
8 illness, a diagnosis of a life-threatening illness, or both. Terminal  
9 illness means the individual has a life expectancy of six months or  
10 less as stated in writing by his or her attending physician and  
11 surgeon. A “life-threatening illness” means the individual has an  
12 illness that can lead to a possibility of a termination of life within  
13 five years or less as stated in writing by his or her attending  
14 physician and surgeon.

15 (C) Services for persons who are catastrophically and severely  
16 disabled. A catastrophically and severely disabled person means  
17 a person whose origin of disability was acquired through trauma  
18 or nondegenerative neurologic illness, for whom it has been  
19 determined that active rehabilitation would be beneficial and to  
20 whom these services are being provided. Services offered by a  
21 congregate living health facility to a catastrophically disabled  
22 person shall include, but not be limited to, speech, physical, and  
23 occupational therapy.

24 (3) A congregate living health facility license shall specify  
25 which of the types of persons described in paragraph (2) to whom  
26 a facility is licensed to provide services.

27 (4) (A) A facility operated by a city and county for the  
28 purposes of delivering services under this section may have a  
29 capacity of 59 beds.

30 (B) A congregate living health facility not operated by a city  
31 and county servicing persons who are terminally ill, persons who  
32 have been diagnosed with a life-threatening illness, or both, that  
33 is located in a county with a population of 500,000 or more persons  
34 may have not more than 25 beds for the purpose of serving  
35 terminally ill persons.

36 (C) A congregate living health facility not operated by a city  
37 and county serving persons who are catastrophically and severely  
38 disabled, as defined in subparagraph (C) of paragraph (2) that is  
39 located in a county of 500,000 or more persons may have not more



1 than 12 beds for the purpose of serving catastrophically and  
2 severely disabled persons.

3 (5) A congregate living health facility shall have a  
4 noninstitutional, homelike environment.

5 (j) (1) “Correctional treatment center” means a health facility  
6 operated by the Department of Corrections, the Department of the  
7 Youth Authority, or a county, city, or city and county law  
8 enforcement agency that, as determined by the state department,  
9 provides inpatient health services to that portion of the inmate  
10 population who do not require a general acute care level of basic  
11 services. This definition shall not apply to those areas of a law  
12 enforcement facility that houses inmates or wards that may be  
13 receiving outpatient services and are housed separately for reasons  
14 of improved access to health care, security, and protection. The  
15 health services provided by a correctional treatment center shall  
16 include, but are not limited to, all of the following basic services:  
17 physician and surgeon, psychiatrist, psychologist, nursing,  
18 pharmacy, and dietary. A correctional treatment center may  
19 provide the following services: laboratory, radiology, perinatal,  
20 and any other services approved by the state department.

21 (2) Outpatient surgical care with anesthesia may be provided,  
22 if the correctional treatment center meets the same requirements  
23 as a surgical clinic licensed pursuant to Section 1204, with the  
24 exception of the requirement that patients remain less than 24  
25 hours.

26 (3) Correctional treatment centers shall maintain written  
27 service agreements with general acute care hospitals to provide for  
28 those inmate physical health needs that cannot be met by the  
29 correctional treatment center.

30 (4) Physician and surgeon services shall be readily available in  
31 a correctional treatment center on a 24-hour basis.

32 (5) It is not the intent of the Legislature to have a correctional  
33 treatment center supplant the general acute care hospitals at the  
34 California Medical Facility, the California Men’s Colony, and the  
35 California Institution for Men. This subdivision shall not be  
36 construed to prohibit the California Department of Corrections  
37 from obtaining a correctional treatment center license at these  
38 sites.

39 (k) “Nursing facility” means a health facility licensed  
40 pursuant to this chapter that is certified to participate as a provider



1 of care either as a skilled nursing facility in the federal Medicare  
2 program under Title XVIII of the federal Social Security Act or as  
3 a nursing facility in the federal medicaid program under Title XIX  
4 of the federal Social Security Act, or as both.

5 (l) Regulations defining a correctional treatment center  
6 described in subdivision (j) that is operated by a county, city, or  
7 city and county, the Department of Corrections, or the Department  
8 of the Youth Authority, shall not become effective prior to, or if  
9 effective, shall be inoperative until January 1, 1996, and until that  
10 time these correctional facilities are exempt from any licensing  
11 requirements.

12 SEC. 2. Section 1250.6 is added to the Health and Safety  
13 Code, to read:

14 1250.6. Any requirement placed upon, or reference to, a  
15 corporation in this chapter, shall also apply to a limited liability  
16 company.

17 SEC. 3. Section 1265 of the Health and Safety Code is  
18 amended to read:

19 1265. Any person, political subdivision of the state, or  
20 governmental agency desiring a license for a health facility,  
21 approval for a special service under this chapter, or approval to  
22 manage a health facility currently licensed as a skilled nursing  
23 facility or intermediate care facility, as defined in subdivision (c)  
24 or (d) of Section 1250, that has not filed an application for a license  
25 to operate that facility shall file with the state department a verified  
26 application on forms prescribed and furnished by the state  
27 department, containing all of the following:

28 (a) The name of the applicant and, if an individual, whether the  
29 applicant has attained the age of 18 years.

30 (b) The type of facility or health facility.

31 (c) The location thereof.

32 (d) The name of the person in charge thereof.

33 (e) Evidence satisfactory to the state department that the  
34 applicant is of reputable and responsible character. If the applicant  
35 is a firm, association, organization, partnership, business trust,  
36 corporation, or company, like evidence shall be submitted as to the  
37 members or shareholders thereof, and the person in charge of the  
38 health facility for which application for license is made. If the  
39 applicant is a political subdivision of the state or other  
40 governmental agency, like evidence shall be submitted as to the



1 person in charge of the health facility for which application for  
2 license is made.

3 (f) Evidence satisfactory to the state department of the ability  
4 of the applicant to comply with this chapter and of rules and  
5 regulations promulgated under this chapter by the state  
6 department.

7 (g) Evidence satisfactory to the department that the applicant  
8 to operate a skilled nursing facility or intermediate care facility  
9 possesses financial resources sufficient to operate the facility for  
10 a period of at least 45 days. A management company shall not be  
11 required to submit this information.

12 (h) Each applicant for a license to operate a skilled nursing  
13 facility or intermediate care facility shall disclose to the state  
14 department evidence of the right to possession of the facility at the  
15 time the application will be granted, that may be satisfied by the  
16 submission of a copy of applicable portions of a lease agreement  
17 or deed of trust. The names and addresses of any persons or  
18 organizations listed as owner of record in the real estate, including  
19 the buildings and the grounds appurtenant to the buildings, shall  
20 be disclosed to the state department.

21 (i) Any other information as may be required by the state  
22 department for the proper administration and enforcement of this  
23 chapter.

24 (j) Upon submission of an application to the state department  
25 by an intermediate care facility/developmentally disabled  
26 habilitative or an intermediate care facility/developmentally  
27 disabled—nursing, the application shall include a statement of  
28 need signed by the chairperson of the area board pursuant to  
29 Chapter 4 (commencing with Section 4570) of Division 4.5 of the  
30 Welfare and Institutions Code. In the event the area board has not  
31 provided the statement of need within 30 days of receipt of the  
32 request from the applicant, the state department may process the  
33 application for license without the statement.

34 (k) The information required pursuant to this section, other  
35 than individuals' social security numbers, shall be made available  
36 to the public upon request, and shall be included in the  
37 department's public file regarding the facility.

38 SEC. 4. Section 1267.5 of the Health and Safety Code is  
39 amended to read:



1 1267.5. (a) (1) Each applicant for a license to operate a  
2 skilled nursing facility or intermediate care facility shall disclose  
3 to the state department the name and business address of each  
4 general partner if the applicant is a partnership, or each director  
5 and officer if the applicant is a corporation, and each person having  
6 a beneficial ownership interest of 5 percent or more in the  
7 applicant corporation or partnership.

8 (2) If any person described in paragraph (1) has served or  
9 currently serves as an administrator, general partner, trustee or  
10 trust applicant, sole proprietor of any applicant or licensee who is  
11 a sole proprietorship, executor, or corporate officer or director of,  
12 or has held a beneficial ownership interest of 5 percent or more in,  
13 any other skilled nursing facility or intermediate care facility or in  
14 any community care facility licensed pursuant to Chapter 3  
15 (commencing with Section 1500) of this division, the applicant  
16 shall disclose the relationship to the state department, including  
17 the name and current or last address of the health facility or  
18 community care facility and the date the relationship commenced  
19 and, if applicable, the date it was terminated.

20 (3) (A) If the facility is operated by, or proposed to be operated  
21 in whole or part under, a management contract, the names and  
22 addresses of any person or organization, or both, having an  
23 ownership or control interest of 5 percent or more in the  
24 management company shall be disclosed to the state department.  
25 This provision shall not apply if the management company has  
26 submitted an application for licensure with the state department  
27 and has complied with paragraph (1).

28 (B) If the management company is a subsidiary of one or more  
29 other organizations, the information shall include the names and  
30 addresses of the parent organizations of the management company  
31 and the names and addresses of any officer or director of the parent  
32 organizations. The failure to comply with this subparagraph may  
33 result in action to revoke or deny a license. However, once the  
34 information that is required under this subparagraph is provided,  
35 the action to revoke the license shall terminate.

36 (4) If the applicant or licensee is a subsidiary of one or more  
37 other organizations, the information shall include the names and  
38 addresses of the parent organizations of the subsidiary and the  
39 names and addresses of any officer or director of the parent  
40 organizations.



1 (5) The information required by this subdivision shall be  
2 provided to the state department upon initial application for  
3 licensure, and any change in the information shall be provided to  
4 the state department within 30 calendar days of that change.

5 (6) Except as provided in subparagraph (B) of paragraph (3),  
6 the failure to comply with this section may result in action to  
7 revoke or deny a license.

8 (7) The information required by this section shall be made  
9 available to the public upon request, shall be included in the public  
10 file of the facility, and by July 1, 2002, shall be included in the  
11 department's automated certification licensing administration  
12 information management system.

13 (b) On and after January 1, 1990, no person may acquire a  
14 beneficial interest of 5 percent or more in any corporation or  
15 partnership licensed to operate a skilled nursing facility or  
16 intermediate care facility, or in any management company under  
17 contract with a licensee of a skilled nursing facility or intermediate  
18 care facility, nor may any person become an officer or director of,  
19 or general partner in, a corporation, partnership, or management  
20 company of this type without the prior written approval of the state  
21 department. Each application for departmental approval pursuant  
22 to this subdivision shall include the information specified in  
23 subdivision (a) as regards the person for whom the application is  
24 made.

25 The state department shall approve or disapprove the  
26 application within 30 days after receipt thereof, unless the state  
27 department, with just cause, extends the application review period  
28 beyond 30 days.

29 (c) The state department may deny approval of a license  
30 application or of an application for approval under subdivision (b)  
31 if a person named in the application, as required by this section,  
32 was an officer, director, general partner, or owner of a 5-percent  
33 or greater beneficial interest in a licensee of, or in a management  
34 company under contract with a licensee of, a skilled nursing  
35 facility, intermediate care facility, community care facility, or  
36 residential care facility for the elderly at a time when one or more  
37 violations of law were committed therein that resulted in  
38 suspension or revocation of its license, or at a time when a  
39 court-ordered receiver was appointed pursuant to Section 1327, or  
40 at a time when a final Medi-Cal decertification action was taken



1 under federal law. However, the prior suspension, revocation, or  
2 court-ordered receivership of a license shall not be grounds for  
3 denial of the application if the applicant shows to the satisfaction  
4 of the state department (1) that the person in question took every  
5 reasonably available action to prevent the violation or violations  
6 that resulted in the disciplinary action and (2) that he or she took  
7 every reasonably available action to correct the violation or  
8 violations once he or she knew, or with the exercise of reasonable  
9 diligence should have known of, the violation or violations.

10 (d) No application shall be denied pursuant to this section until  
11 the state department first (1) provides the applicant with notice in  
12 writing of grounds for the proposed denial of application, and (2)  
13 affords the applicant an opportunity to submit additional  
14 documentary evidence in opposition to the proposed denial.

15 (e) Nothing in this section shall cause any individual to be  
16 personally liable for any civil penalty assessed pursuant to Chapter  
17 2.4 (commencing with Section 1417) or create any new criminal  
18 or civil liability contrary to general laws limiting that liability.

19 (f) This section shall not apply to a bank, trust company,  
20 financial institution, title insurer, controlled escrow company, or  
21 underwritten title company to which a license is issued in a  
22 fiduciary capacity.

23 (g) As used in this section, “person” has the same meaning as  
24 specified in Section 19.

25 (h) This section shall not apply to the directors of a nonprofit  
26 corporation exempt from taxation under Section 23701d of the  
27 Revenue and Taxation Code that operates a skilled nursing facility  
28 or intermediate care facility in conjunction with a licensed  
29 residential facility, where the directors serve without financial  
30 compensation and are not compensated by the nonprofit  
31 corporation in any other capacity.

32 SEC. 5. Section 1328 of the Health and Safety Code is  
33 amended to read:

34 1328. (a) Notwithstanding any other provision of law, the  
35 receiver shall be liable only for damages resulting from gross  
36 negligence in the operation of the facility or intentional tortious  
37 acts.

38 (b) Notwithstanding any other provision of law, the temporary  
39 manager appointed to operate a skilled nursing facility certified to  
40 participate in the federal Medicare program pursuant to Title



1 XVIII (42 U.S.C. Sec. 1395 et seq.) of the Social Security Act, to  
2 operate a nursing facility certified to participate in the medicaid  
3 program pursuant to Title XIX (42 U.S.C. Sec. 1396 et seq.) of the  
4 Social Security Act, or to operate a facility certified to participate  
5 in both programs, or a temporary manager appointed under  
6 Section 1325.5 shall be liable only for damages resulting from  
7 gross negligence in the operation of the facility or intentional  
8 tortious acts.

9 (c) Notwithstanding any other provision of law, the State of  
10 California shall be liable only for damages resulting from  
11 negligence of the receiver or temporary manager in the operation  
12 of the facility.

13 (d) The licensee shall not be liable for any occurrences during  
14 the receivership or temporary management except to the extent  
15 that the occurrences are the result of the licensee’s conduct.

16 SEC. 6. Section 1331 of the Health and Safety Code is  
17 amended to read:

18 1331. (a) The receiver shall be appointed for an initial period  
19 of not more than six months. The initial six-month period may be  
20 extended for additional periods not exceeding six months, as  
21 determined by the court pursuant to this section. At the end of four  
22 months, the receiver shall report to the court on its assessment of  
23 the probability that the long-term health care facility will meet  
24 state standards for operation by the end of the initial six-month  
25 period and will continue to maintain compliance with those  
26 standards after termination of the receiver’s management. If it  
27 appears that the facility cannot be brought into compliance with  
28 state standards within the initial six-month period, the court shall  
29 take appropriate action as follows:

30 (1) Extend the receiver’s management for an additional six  
31 months if there is a substantial likelihood that the facility will meet  
32 state standards within that period and will maintain compliance  
33 with the standards after termination of the receiver’s management.  
34 The receiver shall report to the court in writing upon the facility’s  
35 progress at the end of six weeks of any extension ordered pursuant  
36 to this paragraph.

37 (2) Order the director to revoke or temporarily suspend, or  
38 both, the license pursuant to Section 1296 and extend the  
39 receiver’s management for the period necessary to transfer  
40 patients in accordance with the transfer plan, but for not more than



1 six months from the date of initial appointment of a receiver, or 14  
2 days, whichever is greater. An extension of an additional six  
3 months may be granted if deemed necessary by the court.

4 (b) If it appears at the end of six weeks of an extension ordered  
5 pursuant to paragraph (1) of subdivision (a) that the facility cannot  
6 be brought into compliance with state standards for operation or  
7 that it will not maintain compliance with those standards after the  
8 receiver's management is terminated, the court shall take  
9 appropriate action as specified in paragraph (2) of subdivision (a).

10 (c) In evaluating the probability that a long-term health care  
11 facility will maintain compliance with state standards of operation  
12 after the termination of receiver management ordered by the court,  
13 the court shall consider at least the following factors:

14 (1) The duration, frequency, and severity of past violations in  
15 the facility.

16 (2) History of compliance in other long-term health care  
17 facilities operated by the proposed licensee.

18 (3) Efforts by the licensee to prevent and correct past  
19 violations.

20 (4) The financial ability of the licensee to operate in  
21 compliance with state standards.

22 (5) The recommendations and reports of the receiver.

23 (d) Management of a long-term health care facility operated by  
24 a receiver pursuant to this article shall not be returned to the  
25 licensee, to any person related to the licensee, or to any person who  
26 served as a member of the facility's staff or who was employed by  
27 the licensee prior to the appointment of the receiver unless both of  
28 the following conditions are met:

29 (1) The department believes that it would be in the best interests  
30 of the residents of the facility, requests that the court return the  
31 operation of the facility to the former licensee, and provides clear  
32 and convincing evidence to the court that it is in the best interests  
33 of the facility's residents to take that action.

34 (2) The court finds that the licensee has fully cooperated with  
35 the department in the appointment and ongoing activities of a  
36 receiver appointed pursuant to this section, and, if applicable, any  
37 temporary manager appointed pursuant to Section 1325.5.

38 (e) The owner of the facility may at any time sell, lease, or close  
39 the facility, subject to the following provisions:



1 (1) If the owner closes the facility, or the sale or lease results in  
2 the closure of the facility, the court shall determine if a transfer  
3 plan is necessary. If the court so determines, the court shall adopt  
4 and implement a transfer plan of not more than 30 days.

5 (2) If the licensee proposes to sell or lease the facility and the  
6 facility will continue to operate as a long-term health care facility,  
7 the court and the state department shall reevaluate any proposed  
8 transfer plan. If the court and the state department determine that  
9 the sale or lease of the facility will result in compliance with  
10 licensing standards, the transfer plan and the receivership shall,  
11 subject to those conditions that the court may impose and enforce,  
12 be terminated upon the effective date of the sale or lease.

13 SEC. 7. Section 1337.1 of the Health and Safety Code is  
14 amended to read:

15 1337.1. A skilled nursing or intermediate care facility shall  
16 adopt an approved training program that meets standards  
17 established by the state department. The approved training  
18 program shall consist of at least the following:

19 (a) An orientation program to be given to newly employed  
20 nurse assistants prior to providing direct patient care in skilled  
21 nursing or intermediate care facilities.

22 (b) (1) A precertification training program consisting of at  
23 least 60 classroom hours of training on basic nursing skills, patient  
24 safety and rights, the social and psychological problems of  
25 patients, and resident abuse prevention, recognition, and reporting  
26 pursuant to subdivision (e). The 60 classroom hours of training  
27 may be conducted within a skilled nursing or intermediate care  
28 facility or in an educational institution.

29 (2) In addition to the 60 classroom hours of training required  
30 under paragraph (1), the precertification training program shall  
31 consist of at least 100 hours of supervised and on-the-job training  
32 clinical practice. The 100 hours may consist of normal  
33 employment as a nurse assistant under the supervision of either the  
34 director of nurse training or a licensed nurse qualified to provide  
35 nurse assistant training who has no other assigned duties while  
36 providing the training.

37 (3) At least two hours of the 60 hours of classroom training and  
38 four hours of the 100 hours of the supervised clinical training shall  
39 address the special needs of persons with developmental and  
40 mental disorders, including mental retardation, Alzheimer's



1 disease, cerebral palsy, epilepsy, dementia, Parkinson's disease,  
2 and mental illness.

3 (4) In a precertification training program subject to this  
4 subdivision, credit shall be given for the training received in an  
5 approved precertification training program adopted by another  
6 skilled nursing or intermediate care facility.

7 (5) This subdivision shall not apply to a skilled nursing or  
8 intermediate care facility that demonstrates to the state department  
9 that it employs only nurse assistants with a valid certification.

10 (c) Continuing in-service training to assure continuing  
11 competency in existing and new nursing skills.

12 (d) Each facility shall consider including training regarding the  
13 characteristics and method of assessment and treatment of  
14 acquired immune deficiency syndrome (AIDS).

15 (e) (1) The approved training program shall include, within  
16 the 60 hours of classroom training, a minimum of six hours of  
17 instruction on preventing, recognizing, and reporting instances of  
18 resident abuse utilizing those courses developed pursuant to  
19 Section 13823.93 of the Penal Code.

20 (2) A minimum of four hours of instruction on preventing,  
21 recognizing, and reporting instances of resident abuse shall be  
22 included within the total minimum hours of continuing education  
23 or in-service training required and in effect for certified nursing  
24 assistants.

25 SEC. 8. Section 1337.3 of the Health and Safety Code is  
26 amended to read:

27 1337.3. (a) The state department shall prepare and maintain  
28 a list of approved training programs for nurse assistant  
29 certification. The list shall include training programs conducted by  
30 skilled nursing or intermediate care facilities, as well as local  
31 agencies and education programs. In addition, the list shall include  
32 information on whether a training center is currently training nurse  
33 assistants, their competency test pass rates, and the number of  
34 nurse assistants they have trained. Clinical portions of the training  
35 programs may be obtained as on-the-job training, supervised by a  
36 qualified director of staff development or licensed nurse.

37 (b) It shall be the duty of the state department to inspect a  
38 representative sample of training programs. The state department  
39 shall protect consumers and students in any training program  
40 against fraud, misrepresentation, or other practices that may result



1 in improper or excessive payment of funds paid for training  
2 programs. In evaluating a training center's training program, the  
3 state department shall examine each training center's trainees'  
4 competency test passage rate, and require each program to  
5 maintain an average 60 percent test score passage rate to maintain  
6 its participation in the program. The average test score passage rate  
7 shall be calculated over a two-year period. If the state department  
8 determines that any training program is not complying with  
9 regulations or is not meeting the competency passage rate  
10 requirements, notice thereof in writing shall be immediately given  
11 to the program. If the program has not been brought into  
12 compliance within a reasonable time, the program may be  
13 removed from the approved list and notice thereof in writing given  
14 to it. Programs removed under this article shall be afforded an  
15 opportunity to request reinstatement of program approval at any  
16 time. The state department's district offices shall inspect  
17 facility-based centers as part of their annual survey.

18 (c) Notwithstanding Section 1337.1, the approved training  
19 program shall consist of at least the following:

20 (1) A 16-hour orientation program to be given to newly  
21 employed nurse assistants prior to providing direct patient care,  
22 and consistent with federal training requirements for facilities  
23 participating in the Medicare or medicaid programs.

24 (2) (A) A certification training program consisting of at least  
25 60 classroom hours of training on basic nursing skills, patient  
26 safety and rights, the social and psychological problems of  
27 patients, and elder abuse recognition and reporting pursuant to  
28 subdivision (e) of Section 1337.1. The 60 classroom hours of  
29 training may be conducted within a skilled nursing facility, an  
30 intermediate care facility, or an educational institution.

31 (B) In addition to the 60 classroom hours of training required  
32 under subparagraph (A), the certification program shall also  
33 consist of 100 hours of supervised and on-the-job training clinical  
34 practice. The 100 hours may consist of normal employment as a  
35 nurse assistant under the supervision of either the director of staff  
36 development or a licensed nurse qualified to provide nurse  
37 assistant training who has no other assigned duties while providing  
38 the training.

39 (3) At least two hours of the 60 hours of classroom training and  
40 four hours of the 100 hours of the supervised clinical training shall



1 address the special needs of persons with developmental and  
2 mental disorders, including mental retardation, Alzheimer's  
3 disease, cerebral palsy, epilepsy, dementia, Parkinson's disease,  
4 and mental illness.

5 (d) The state department, in consultation with the State  
6 Department of Education and other appropriate organizations,  
7 shall develop criteria for approving training programs, that  
8 includes program content for orientation, training, inservice and  
9 the examination for testing knowledge and skills related to basic  
10 patient care services and shall develop a plan that identifies and  
11 encourages career ladder opportunities for certified nurse  
12 assistants. This group shall also recommend, and the department  
13 shall adopt, regulation changes necessary to provide for patient  
14 care when facilities utilize noncertified nurse assistants who are  
15 performing direct patient care. The requirements of this  
16 subdivision shall be established by January 1, 1989.

17 (e) On or before January 1, 2004, the state department, in  
18 consultation with the State Department of Education, the  
19 American Red Cross, and other appropriate organizations, shall do  
20 the following:

21 (1) Review the current examination for approved training  
22 programs for certified nurse assistants to ensure the accurate  
23 assessment of whether a nurse assistant has obtained the required  
24 knowledge and skills related to basic patient care services.

25 (2) Develop a plan that identifies and encourages career ladder  
26 opportunities for certified nurse assistants, including the  
27 application of on-the-job post-certification hours to educational  
28 credits.

29 (f) A skilled nursing or intermediate care facility shall  
30 determine the number of specific clinical hours within each  
31 module identified by the state department required to meet the  
32 requirements of subdivision (d), subject to subdivisions (b) and  
33 (c). The facility shall consider the specific hours recommended by  
34 the state department when adopting the certification training  
35 program required by this chapter.

36 (g) This article shall not apply to a program conducted by any  
37 church or denomination for the purpose of training the adherents  
38 of the church or denomination in the care of the sick in accordance  
39 with its religious tenets.



1 (h) The Chancellor of the California Community Colleges shall  
2 provide to the state department a standard process for approval of  
3 college credit. The state department shall make this information  
4 available to all training programs in the state.

5 SEC. 9. Section 1417.3 of the Health and Safety Code is  
6 amended to read:

7 1417.3. The department shall promote quality of care and  
8 quality of life for residents, clients, and patients in long-term  
9 health care facility services through specific activities that include,  
10 but are not limited to, all of the following:

11 (a) Research and evaluation of innovative facility resident care  
12 models.

13 (b) (1) Provision of statewide training on effective facility  
14 practices.

15 (2) Training also shall include topics related to the provision of  
16 quality of care and quality of life for facility residents. The topics  
17 for training shall be identified by the department through a  
18 periodic survey. The curriculum for the training provided under  
19 this paragraph shall be developed in consultation with  
20 representatives from provider associations, consumer  
21 associations, and others, as deemed appropriate by the state  
22 department.

23 (c) The establishment of separate units to respond to facility  
24 requests for technical assistance regarding licensing and  
25 certification requirements, compliance with federal and state  
26 standards, and related operational issues.

27 (d) State employees providing technical assistance to facilities  
28 pursuant to this section are only required to report violations they  
29 discover during the provision of the assistance to the appropriate  
30 district office if the violations constitute an immediate and serious  
31 threat to the health and welfare of, or have resulted in actual harm  
32 to, patients, residents, or clients of the facility.

33 (e) The state department shall measure facility satisfaction and  
34 the effectiveness of the technical assistance provided pursuant to  
35 subdivision (c).

36 (f) No person employed in the technical assistance or training  
37 units under subdivisions (b) and (c) shall also participate in the  
38 licensing, surveying, or direct regulation of facilities.

39 (g) This section shall not diminish the department's ongoing  
40 survey and enforcement process.



1 SEC. 10. Section 1418.91 of the Health and Safety Code is  
2 amended to read:

3 1418.91. (a) A long-term health care facility shall report all  
4 incidents of alleged abuse or suspected abuse of a resident of the  
5 facility to the department immediately, or within 24 hours.

6 (b) Unless otherwise determined to be a class “A” citation, a  
7 failure to comply with the requirements of this section shall be a  
8 class “B” violation.

9 (c) For purposes of this section, “abuse” shall mean any of the  
10 conduct described in subdivisions (a) and (b) of Section 15610.07  
11 of the Welfare and Institutions Code.

12 (d) This section shall not change any reporting requirements  
13 under Section 15630 of the Welfare and Institutions Code, or as  
14 otherwise specified in the Elder Abuse and Dependent Adult Civil  
15 Protection Act, Chapter 11 (commencing with Section 15600) of  
16 Part 3 of Division 9 of the Welfare and Institutions Code.

17 SEC. 11. Section 1420 of the Health and Safety Code is  
18 amended to read:

19 1420. (a) (1) Upon receipt of a written or oral complaint, the  
20 state department shall assign an inspector to make a preliminary  
21 review of the complaint and shall notify the complainant within  
22 two working days of the receipt of the complaint of the name of  
23 the inspector. Unless the state department determines that the  
24 complaint is willfully intended to harass a licensee or is without  
25 any reasonable basis, it shall make an onsite inspection or  
26 investigation within 10 working days of the receipt of the  
27 complaint. In any case in which the complaint involves a threat of  
28 imminent danger of death or serious bodily harm, the state  
29 department shall make an onsite inspection or investigation within  
30 24 hours of the receipt of the complaint. In any event, the  
31 complainant shall be promptly informed of the state department’s  
32 proposed course of action and of the opportunity to accompany the  
33 inspector on the inspection or investigation of the facility. Upon  
34 the request of either the complainant or the state department, the  
35 complainant or his or her representative, or both, may be allowed  
36 to accompany the inspector to the site of the alleged violations  
37 during his or her tour of the facility, unless the inspector  
38 determines that the privacy of any patient would be violated  
39 thereby.



1 (2) When conducting an onsite inspection or investigation  
2 pursuant to this section, the state department shall collect and  
3 evaluate all available evidence and may issue a citation based  
4 upon, but not limited to, all of the following:

- 5 (A) Observed conditions.
- 6 (B) Statements of witnesses.
- 7 (C) Facility records.

8 (3) Within 10 working days of the completion of the complaint  
9 investigation, the state department shall notify the complainant  
10 and licensee in writing of the department’s determination as a  
11 result of the inspection or investigation.

12 (b) Upon being notified of the state department’s determination  
13 as a result of the inspection or investigation, a complainant who is  
14 dissatisfied with the state department’s determination, regarding  
15 a matter which would pose a threat to the health, safety, security,  
16 welfare, or rights of a resident, shall be notified by the state  
17 department of the right to an informal conference, as set forth in  
18 this section. The complainant may, within five business days after  
19 receipt of the notice, notify the director in writing of his or her  
20 request for an informal conference. The informal conference shall  
21 be held with the designee of the director for the county in which  
22 the long-term health care facility which is the subject of the  
23 complaint is located. The long-term health care facility may  
24 participate as a party in this informal conference. The director’s  
25 designee shall notify the complainant and licensee of his or her  
26 determination within 10 working days after the informal  
27 conference and shall apprise the complainant and licensee in  
28 writing of the appeal rights provided in subdivision (c).

29 (c) If the complainant is dissatisfied with the determination of  
30 the director’s designee in the county in which the facility is  
31 located, the complainant may, within 15 days after receipt of this  
32 determination, notify in writing the Deputy Director of the  
33 Licensing and Certification Division of the state department, who  
34 shall assign the request to a representative of the Complainant  
35 Appeals Unit for review of the facts that led to both  
36 determinations. As a part of the Complainant Appeals Unit’s  
37 independent investigation, and at the request of the complainant,  
38 the representative shall interview the complainant in the district  
39 office where the complaint was initially referred. Based upon this  
40 review, the Deputy Director of the Licensing and Certification



1 Division of the state department shall make his or her own  
2 determination and notify the complainant and the facility within  
3 30 days.

4 (d) Any citation issued as a result of a conference or review  
5 provided for in subdivision (b) or (c) shall be issued and served  
6 upon the facility within three working days of the final  
7 determination, unless the licensee agrees in writing to an extension  
8 of this time. Service shall be effected either personally or by  
9 registered or certified mail. A copy of the citation shall also be sent  
10 to each complainant by registered or certified mail.

11 (e) A miniexit conference shall be held with the administrator  
12 or his or her representative upon leaving the facility at the  
13 completion of the investigation to inform him or her of the status  
14 of the investigation. The department shall also state the items of  
15 noncompliance and compliance found as a result of a complaint  
16 and those items found to be in compliance, provided the disclosure  
17 maintains the anonymity of the complainant. In any matter in  
18 which there is a reasonable probability that the identity of the  
19 complainant will not remain anonymous, the state department  
20 shall also notify the facility that it is unlawful to discriminate or  
21 seek retaliation against a ~~resident or employee~~ *resident, employee,*  
22 *or complainant.*

23 (f) For purposes of this section, “complaint” means any oral or  
24 written notice to the state department, other than a report from the  
25 facility of an alleged violation of applicable requirements of state  
26 or federal law or any alleged facts that might constitute such a  
27 violation.

28 SEC. 12. Section 1421.2 of the Health and Safety Code is  
29 amended to read:

30 1421.2. (a) There is hereby established in the state  
31 department the Skilled Nursing Facility Financial Solvency  
32 Advisory Board.

33 (b) The board shall be composed of eight members.

34 The members shall consist of the director, or the director’s  
35 designee, and seven members appointed by the director.

36 The seven members appointed by the director may be, but are  
37 not necessarily limited to, individuals with training and experience  
38 in the following areas or fields:

- 39 (1) Medical and health care economics.  
40 (2) Consumer advocacy or representation.



- 1 (3) Nursing facility employee organizations.
- 2 (4) Accountancy.
- 3 (5) Research or actuarial studies in the area of skilled nursing
- 4 facilities.
- 5 (6) Management or administration of skilled nursing facilities.
- 6 (c) One of the members appointed by the director shall be a
- 7 representative of a collective bargaining agent.
- 8 (d) The purpose of the board shall be to do all of the following:
- 9 (1) Advise the director on matters of financial solvency
- 10 affecting the delivery of services in skilled nursing facilities.
- 11 (2) Develop and recommend to the director financial solvency
- 12 licensing requirements and standards relating to the operation of
- 13 skilled nursing facilities.
- 14 (3) Periodically monitor and report on the implementation and
- 15 results of the financial solvency licensing requirements and
- 16 standards.
- 17 (e) The board shall meet at least quarterly and at the call of the
- 18 chair. In order to preserve the independence of the board, the
- 19 director shall not serve as chair. The members of the board may
- 20 establish their own rules and procedures.
- 21 (f) All members shall serve without compensation, but shall be
- 22 reimbursed from department funds for expenses actually and
- 23 necessarily incurred in the performance of their duties.
- 24 (g) For purposes of this section, "board" means the Skilled
- 25 Nursing Facility Financial Solvency Advisory Board.
- 26 (h) Financial solvency licensing requirements and standards
- 27 recommended to the director by the board and approved by the
- 28 director may be noticed, after a period of review and comment not
- 29 to exceed 45 days, for adoption as regulations as proposed or
- 30 modified under the rulemaking provisions of the Administrative
- 31 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
- 32 Part 1 of Division 3 of Title 2 of the Government Code). During
- 33 the director's 45-day review and comment period, the director, in
- 34 consultation with the board, may postpone the adoption of the
- 35 licensing requirements and standards pending further review and
- 36 comment.
- 37 (i) The board shall report to the director on or before July 1,
- 38 2002, on its recommendations.
- 39 (j) This section shall remain in effect only until January 1,
- 40 2004, and as of that date is repealed, unless a later enacted statute,



1 which is enacted before January 1, 2004, deletes or extends that  
2 date.

3 SEC. 13. Section 1422.5 of the Health and Safety Code is  
4 amended to read:

5 1422.5. (a) The department shall develop and establish a  
6 consumer information service system to provide updated and  
7 accurate information to the general public and consumers  
8 regarding long-term care facilities in their communities. The  
9 consumer information service system shall include, but need not  
10 be limited to, all of the following elements:

11 (1) An on-line inquiry system accessible through a statewide  
12 toll-free telephone number and the Internet.

13 (2) Long-term health care facility profiles, with data on  
14 services provided, a history of all citations and complaints for the  
15 last two full survey cycles, and ownership information. The profile  
16 for each facility shall include, but not be limited to, all of the  
17 following:

18 (A) The name, address, and telephone number of the facility.

19 (B) The number of units or beds in the facility.

20 (C) Whether the facility accepts Medicare or Medi-Cal  
21 patients.

22 (D) Whether the facility has a special care unit or program for  
23 people with Alzheimer's disease and other dementias, and whether  
24 the facility participates in the voluntary disclosure program for  
25 special care units.

26 (E) Whether the facility is a for-profit or not-for-profit  
27 provider.

28 (3) Information regarding substantiated complaints shall  
29 include the action taken and the date of action.

30 (4) Information regarding the state citations assessed shall  
31 include the status of the state citation, including the facility's plan  
32 or correction, and information as to whether an appeal has been  
33 filed.

34 (5) Any appeal resolution pertaining to a citation or complaint  
35 shall be updated on the file in a timely manner.

36 (b) Where feasible, the department shall interface the  
37 consumer information service system with its Automated  
38 Certification and Licensure Information Management System.



1 (c) It is the intent of the Legislature that the department, in  
2 developing and establishing the system pursuant to subdivision  
3 (a), maximize the use of available federal funds.

4 (d) (1) Notwithstanding the consumer information service  
5 system established pursuant to subdivision (a), by January 1, 2002,  
6 the state department shall develop a method whereby information  
7 is provided to the public and consumers on long-term health care  
8 facilities. The information provided shall include, but not be  
9 limited to, all of the following elements:

10 (A) Substantiated complaints, including the action taken and  
11 the date of the action.

12 (B) State citations assessed, including the status of any citation  
13 and whether an appeal has been filed.

14 (C) State actions, including license suspensions, revocations,  
15 and receiverships.

16 (D) Federal enforcement sanctions imposed, including any  
17 denial of payment, temporary management, termination, or civil  
18 money penalty of five hundred dollars (\$500) or more.

19 (E) Any information or data beneficial to the public and  
20 consumers.

21 (2) This subdivision shall become inoperative on July 1, 2003.

22 (e) In implementing this section, the department shall ensure  
23 the confidentiality of personal and identifying information of  
24 residents and employees and shall not disclose this information  
25 through the consumer information service system developed  
26 pursuant to this section.

27 SEC. 14. Section 1423.5 of the Health and Safety Code is  
28 amended to read:

29 1423.5. (a) The state department shall centrally review  
30 federal deficiencies and supporting documentation that may  
31 require the termination of certification for a nursing facility. The  
32 state department shall develop a standardized methodology for  
33 conducting the central review of these deficiencies. The  
34 standardized methodology shall assess all of the following:

35 (1) The extent to which the survey team followed established  
36 survey protocols.

37 (2) The thoroughness of the investigation or review.

38 (3) The quality of documentation.

39 (4) The consistency in interpreting federal requirements.



1 (b) The state department shall develop a system for tracking  
2 patterns and a quality assurance process for preventing, detecting,  
3 and correcting inconsistent or poor quality survey practices.

4 (c) (1) On or before December 1 of each year, the state  
5 department shall provide to the Legislature a summary of federal  
6 and state enforcement actions taken against nursing facilities  
7 during the previous state fiscal year.

8 (2) The report summarizing federal and state enforcement  
9 actions required under this subdivision shall be combined with the  
10 report required under Section 1438 into a single report. The time  
11 period for each report shall cover the previous state fiscal year.

12 SEC. 15. Section 1428.1 of the Health and Safety Code is  
13 amended to read:

14 1428.1. Except as provided in subdivision (b) of Section  
15 1424.5, a licensee may, in lieu of contesting a citation pursuant to  
16 Section 1428, transmit to the state department the minimum  
17 amount specified by law, or 65 percent of the amount specified in  
18 the citation, whichever is greater, for each violation within 15  
19 business days after the issuance of the citation.

20 SEC. 16. Section 1432 of the Health and Safety Code is  
21 amended to read:

22 1432. (a) No licensee shall discriminate or retaliate in any  
23 manner against any complainant, or any patient or employee in its  
24 long-term health care facility, on the basis or for the reason that the  
25 complainant, patient, employee, or any other person has presented  
26 a grievance or complaint, or has initiated or cooperated in any  
27 investigation or proceeding of any governmental entity relating to  
28 care, services, or conditions at that facility. A licensee who violates  
29 this section is subject to a civil penalty of no more than ten  
30 thousand dollars (\$10,000), to be assessed by the director and  
31 collected in the manner provided in Section 1430.

32 (b) Any attempt to expel a patient from a long-term health care  
33 facility, or any type of discriminatory treatment of a patient by  
34 whom, or upon whose behalf, a grievance or complaint has been  
35 submitted, directly or indirectly, to any governmental entity or  
36 received by a long-term health care facility administrator or any  
37 proceeding instituted under or related to this chapter within 180  
38 days of the filing of the complaint or the institution of the action,  
39 shall raise a rebuttable presumption that the action was taken by  
40 the licensee in retaliation for the filing of the complaint.



1 (c) Any attempt to terminate the employment, or other  
2 discriminatory treatment, of any employee who has presented a  
3 grievance or complaint or has initiated, participated, or cooperated  
4 in any investigation or proceeding of any governmental entity as  
5 specified in subdivision (a), and where the facility or licensee had  
6 knowledge of the employee's initiation, participation, or  
7 cooperation, shall raise a rebuttable presumption that the action  
8 was taken by the licensee in retaliation if it occurs within 120 days  
9 of the filing of the grievance or complaint, or the institution of the  
10 action.

11 (d) Presumptions provided for in subdivisions (b) and (c) shall  
12 be presumptions affecting the burden of producing evidence as  
13 provided in Section 603 of the Evidence Code.

14 (e) Where the civil penalty assessed is one thousand dollars  
15 (\$1000) or less, the violation shall be issued and enforced in the  
16 same manner as a class "B" violation, except in no case shall the  
17 penalty be trebled. Where the civil penalty assessed is in excess of  
18 one thousand dollars (\$1000), the violation shall be issued and  
19 enforced in the same manner as a class "A" violation, except in no  
20 case shall the penalty be trebled.

21 (f) Any person who willfully violates this section is guilty of an  
22 infraction punishable by a fine of not more than ten thousand  
23 dollars (\$10,000).

24 (g) A licensee who violates this section is subject to a civil  
25 penalty or a criminal fine, but not both.

26 (h) Each long-term health care facility shall prominently post  
27 in a facility location accessible to staff, patients, and visitors  
28 written notice of the right to request an inspection pursuant to  
29 Section 1419, the procedure for doing so, including the right to  
30 remain anonymous, and the prohibition against retaliation.

31 (i) For purposes of this section, "complainant" means any  
32 person who has filed a complaint, as defined in Section 1420.

33 SEC. 17. Section 1438 of the Health and Safety Code is  
34 amended to read:

35 1438. The state department shall review the effectiveness of  
36 the enforcement system in maintaining the quality of care  
37 provided by long-term health care facilities and shall submit a  
38 report thereon to the Legislature on enforcement activities, on or  
39 before December 1, 2001, and annually thereafter, together with  
40 any recommendations of the state department for additional



1 legislation which it deems necessary to improve the effectiveness  
2 of the enforcement system or to enhance the quality of care  
3 provided by long-term health care facilities. This report shall be  
4 combined with the report required under Section 1423.5 into a  
5 single report. The time period for each report shall cover the  
6 previous state fiscal year.

7 SEC. 18. No reimbursement is required by this act pursuant  
8 to Section 6 of Article XIII B of the California Constitution  
9 because the only costs that may be incurred by a local agency or  
10 school district will be incurred because this act creates a new crime  
11 or infraction, eliminates a crime or infraction, or changes the  
12 penalty for a crime or infraction, within the meaning of Section  
13 17556 of the Government Code, or changes the definition of a  
14 crime within the meaning of Section 6 of Article XIII B of the  
15 California Constitution.

