

AMENDED IN SENATE JUNE 28, 2001
AMENDED IN ASSEMBLY MAY 31, 2001
AMENDED IN ASSEMBLY MAY 15, 2001
AMENDED IN ASSEMBLY APRIL 24, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1643

Introduced by Assembly Member Negrete McLeod

February 23, 2001

An act to amend Section 1812.509 of, and to add Chapter 8 (commencing with Section 1812.540) to Title 2.91 of Part 4 of Division 3 of the Civil Code, relating to long-term care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1643, as amended, Negrete McLeod. Long-term care facilities: temporary staff.

Existing law, the Employment Agency, Employment Counseling, and Job Listing Services Act, governs employment agencies, including nurses' registries. The provisions governing nurses' registries require, among other things, that a nurse's registry maintain a surety bond and regulate continuing contracts between private duty nurses and nurses' registries. A violation of the act is a misdemeanor.

This bill would prohibit an employment agency that procures temporary employment for long-term health care employers from referring a certified nurse assistant or licensed nursing staff, as defined, for employment without first conducting a personal interview of the individual, verifying the experience, training, and references of the



individual, and verifying that the individual is in good standing with the appropriate licensing or certification board, including verification that the person has successfully secured a criminal record clearance.

The bill would regulate the temporary assignment of licensed nursing staff or certified nurse assistants rendering service to a patient who is a resident of a long-term care facility. Among other things, the bill would require an employment agency that refers licensed nursing staff or a certified nurse assistant for temporary employment in a licensed long-term care facility to provide written verification to the facility that the person referred is in good standing with the applicable registry or licensing board, and has had a recent health examination. The bill would also require the agency to provide an employer with a statement that a certified nurse assistant referred by the agency has at least 6 months' experience working in a long-term health care facility. The employment agency would also be required to provide written verification that the certified nurse assistants or licensed nursing staff referred by the agency do not have any unresolved allegations against them involving the mistreatment, neglect, or abuse of a patient. The bill would enact other requirements related to advertising by employment agencies with respect to employment in long-term health care facilities.

Since a violation of these provisions would be a misdemeanor, the bill would impose 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 1812.509 of the Civil Code is amended
 2 to read:
 3 1812.509. (a) No employment agency shall, when
 4 employment would be in violation of Chapter 1 (commencing with
 5 Section 1171) of Part 4 of Division 2 of the Labor Code or Part 27
 6 (commencing with Section 48000) of the Education Code, accept



1 any application for employment made by, or on behalf of, any
2 minor, or place or assist in placing any minor in that employment.

3 (b) Every employment agency shall notify each jobseeker
4 before sending the jobseeker in response to a request for
5 employment whether a labor contract is in existence at the
6 establishment to which the jobseeker is being sent, and whether
7 union membership is required.

8 (c) No employment agency shall send a jobseeker to any place
9 where a strike, lockout, or other labor trouble exists without
10 notifying the jobseeker of that fact and shall in addition thereto
11 enter a statement of those conditions upon the contract or receipt
12 given to the jobseeker.

13 (d) No babysitting, domestic, or other employment agency
14 which procures babysitting or domestic employment for
15 employers shall refer babysitters or domestics for any employment
16 without first conducting a personal interview of the jobseeker and
17 making a reasonable effort to verify the experience or training of
18 the jobseeker.

19 (e) No employment agency that procures temporary
20 employment for long-term health care employers shall refer
21 certified nurse assistants or licensed nursing staff as defined in
22 Section 1812.540, for any employment without first conducting a
23 personal interview of the individual, verifying the experience,
24 training, and references of the individual, and verifying that the
25 individual is in good standing with the appropriate licensing or
26 certification board, including verification that the individual has
27 successfully secured a criminal record clearance.

28 SEC. 2. Chapter 8 (commencing with Section 1812.540) is
29 added to Title 2.91 of Part 4 of Division 3 of the Civil Code, to
30 read:

31

32 CHAPTER 8. LONG-TERM CARE FACILITIES

33

34 1812.540. For purposes of this chapter, the following
35 definitions shall apply:

36 (a) "Direct care service" means the temporary assignment of
37 certified nurse assistants to render basic care services directed at
38 the safety, comfort, personal hygiene, or protection of a patient
39 who is a resident of a long-term health care facility.



1 (b) “Nursing service” means the temporary assignment of a
2 licensed registered nurse, licensed vocational nurse, or psychiatric
3 technician to render nursing and basic care services to a patient
4 who is a resident of a long-term health care facility.

5 (c) “Licensed nursing staff” means a licensed registered nurse,
6 licensed vocational nurse, or psychiatric technician.

7 (d) “Long-term health care facility” means a licensed facility,
8 as defined in Section 1418 of the Health and Safety Code.

9 1812.541. Every employment agency that refers temporary
10 certified nurse assistants to an employer that is a long-term health
11 care facility shall provide the employer with all of the following:

12 (a) Written verification that the employment agency has
13 verified that any certified nurse assistant referred by the agency is
14 registered on the state registry of certified nurse assistants and is
15 in good standing. The employment agency shall provide to the
16 employer the certified nurse assistant’s professional certification
17 number and date of expiration.

18 (b) A statement that the certified nurse assistant has at least six
19 months of experience working in a long-term health care facility.

20 (c) A statement that the certified nurse assistant has had a health
21 examination within 90 days prior to employment with the
22 employment agency or seven days after employment with the
23 employment agency and at least annually thereafter by a person
24 lawfully authorized to perform that procedure. Each examination
25 shall include a medical history and physical evaluation. The
26 employment agency shall also provide verification that the
27 individual has had tuberculosis screening within 90 days prior to
28 employment and annually thereafter.

29 (d) A statement that the certified nurse assistant will participate
30 in the facility’s *orientation program and any* in-service training
31 programs at the request of the long-term health care employer.

32 (e) A statement that a certified nurse assistant is in compliance
33 with the in-service training requirements of paragraph (1) of
34 subdivision (a) of Section 1337.6 of the Health and Safety Code.

35 1812.542. Every employment agency that refers temporary
36 licensed nursing staff to an employer who is a licensed long-term
37 health care facility shall provide the employer with all of the
38 following:

39 (a) Written verification that the individual is in good standing
40 with the Board of Registered Nursing or the Board of Vocational



1 Nursing and Psychiatric Technicians, as applicable, and has
2 successfully secured a criminal record clearance. The employment
3 agency shall provide to the employer the individual's professional
4 license and registration number and date of expiration.

5 (b) A statement that the licensed nursing staff person has had
6 a health examination within 90 days prior to employment with the
7 employment agency or seven days after employment with the
8 employment agency and at least annually thereafter by a person
9 lawfully authorized to perform that procedure. Each examination
10 shall include a medical history and physical evaluation. The
11 employment agency shall also provide verification that the
12 individual has had tuberculosis screening within 90 days prior to
13 employment and annually thereafter.

14 1812.543. (a) An employment agency that makes referrals of
15 licensed nursing staff or certified nurse assistants for temporary
16 employment in a long-term health care facility shall adopt policies
17 and procedures regarding prevention of resident or patient abuse
18 by temporary staff.

19 (b) The employment agency shall provide written verification
20 to the long-term health care facility that any certified nurse
21 assistants or licensed nursing staff referred by the agency do not
22 have any unresolved allegations against them involving the
23 mistreatment, neglect, or abuse of a patient, including injuries of
24 unknown source and misappropriation of resident property.

25 (c) *No temporary staff person referred by an employment*
26 *agency may be solely responsible for a unit unless that person has*
27 *received a full orientation to the facility and the applicable unit for*
28 *which he or she is assigned.*

29 (d) *Upon the request of the State Department of Health*
30 *Services, an employment agency shall provide a list of temporary*
31 *employees who have been referred to a specified facility during the*
32 *period in which the facility is involved in a labor action.*

33 (e) *An employment agency shall require that any employee*
34 *referred to a long-term care facility be identified as a temporary*
35 *staff person in the facility's daily staffing levels required to be*
36 *posted in accordance with the standards set forth in Section 941*
37 *of Appendix F of Public Law 106-554 (42 U.S.C. Sec.*
38 *1395i-3(b)(8) and 42 U.S.C. Sec. 1395r(b)(8)).*

39 1812.544. (a) Every employment agency that makes
40 referrals of licensed nursing staff or certified nurse assistants for



1 temporary employment in a long-term health care facility shall
2 maintain a record of all advertisements, showing the date of
3 publication and the publication in which the advertisement
4 appeared, for a period of one year from the date of the
5 advertisement.

6 (b) No employment agency that makes referrals for
7 employment to a long-term health care facility shall, by its name,
8 advertisement, or any other representation, represent itself to be a
9 home health agency, as defined by subdivision (a) of Section 1727
10 of the Health and Safety Code, or to perform the services of a home
11 health agency. The employment agency shall provide a written
12 disclosure to each employer stating that it does not perform the
13 services of a home health agency and clearly describing that it is
14 an employment agency only.

15 (c) Any facility or individual may refer complaints concerning
16 employment agencies which place licensed nursing staff or
17 certified nurse assistants in long-term health care facilities to the
18 appropriate licensing, certification, ombudsman, adult protective
19 services, or proper law enforcement agency for action.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

