

Assembly Bill No. 1643

CHAPTER 326

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.

[Approved by Governor September 23, 2001. Filed with Secretary of State September 24, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1643, 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.

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

SECTION 1. Section 1812.509 of the Civil Code is amended to read:

1812.509. (a) No employment agency shall, when employment would be in violation of Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code or Part 27 (commencing with Section 48000) of the Education Code, accept any application for employment made by, or on behalf of, any minor, or place or assist in placing any minor in that employment.

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

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

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

(e) No employment agency that procures temporary employment for long-term health care employers shall refer certified nurse assistants or licensed nursing staff as defined in Section 1812.540, for any 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 individual has successfully secured a criminal record clearance.



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

CHAPTER 8. LONG-TERM CARE FACILITIES

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

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

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

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

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

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

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

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

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

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

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



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

(a) Written verification that the individual is in good standing with the Board of Registered Nursing or the Board of Vocational Nursing and Psychiatric Technicians, as applicable, and has successfully secured a criminal record clearance. The employment agency shall provide to the employer the individual's professional license and registration number and date of expiration.

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

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

(b) The employment agency shall provide written verification to the long-term health care facility that any 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, including injuries of unknown source and misappropriation of resident property.

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

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

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

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



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

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

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

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

