

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2791

Introduced by Assembly Member ~~Berg~~ Simitian

February 20, 2004

~~An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Section 1430 of the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2791, as amended, ~~Berg~~ Simitian. ~~Medi-Cal-Skilled nursing and intermediate care facilities: liability.~~

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and other low-income persons. Existing law contains a schedule of covered Medi-Cal benefits.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Existing law authorizes a resident or patient of a skilled nursing facility or intermediate care facility to bring a civil action against the licensee of a facility that violates any rights of the resident or patient as set forth in the Patients Bill of Rights. Existing law provides that the licensee is liable for up to \$500, and for costs and attorney fees, and may be enjoined from permitting the violation to continue.

This bill would increase the licensee's liability to \$5,000.

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

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

1 ~~SECTION 1. Section 14132 of the Welfare and Institutions~~
2 SECTION 1. *Section 1430 of the Health and Safety Code is*
3 *amended to read:*

4 1430. (a) Except where the state department has taken action
5 and the violations have been corrected to its satisfaction, ~~any a~~
6 licensee who commits a class “A” or “B” violation may be
7 enjoined from permitting the violation to continue or may be sued
8 for civil damages within a court of competent jurisdiction. ~~Such~~
9 ~~actions~~ *An action* for injunction or civil damages, or both, may be
10 prosecuted by the Attorney General in the name of the people of
11 the State of California upon his or her own complaint or upon the
12 complaint of ~~any a~~ board, officer, person, corporation, or
13 association, or by ~~any a~~ person acting for the interests of itself, its
14 members, or the general public. The amount of civil damages
15 ~~which that~~ may be recovered in an action brought pursuant to this
16 section ~~shall~~ *may* not exceed the maximum amount of civil
17 penalties ~~which that~~ could be assessed on account of the violation
18 or violations.

19 (b) A *current or former* resident or patient of a skilled nursing
20 facility, as defined in subdivision (c) of Section 1250, or
21 intermediate care ~~facilities~~ *facility*, as defined in subdivision (d)
22 of Section 1250, may bring a civil action against the licensee of a
23 facility who violates any rights of the resident or patient as set forth
24 in the Patients Bill of Rights in Section 72527 of Title 22 of the
25 California ~~Administrative Code of Regulations, or any other right~~
26 *provided for by federal or state law or regulation.* The suit shall be
27 brought in a court of competent jurisdiction. The licensee shall be
28 liable for the acts of the licensee’s employees. The licensee shall
29 be liable for up to five ~~hundred thousand~~ *thousand* dollars ~~(\$500)~~ *(\$5,000)*,
30 and for costs and attorney fees, and may be enjoined from
31 permitting the violation to continue. An agreement by a resident
32 or patient of a skilled nursing facility or intermediate care facility
33 to waive his or her rights to sue pursuant to this subdivision shall
34 be void as contrary to public policy.

35 (c) The remedies specified in this section shall be in addition to
36 any other remedy provided by law.



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All matter omitted in this version of the bill appears in the bill as introduced in the Assembly, February 20, 2004. (JR 11)

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