

Assembly Bill No. 1434

Passed the Assembly August 30, 2005

Chief Clerk of the Assembly

Passed the Senate August 29, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1725 and 1726 of the Health and Safety Code, relating to home health agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1434, Shirley Horton. Home health agencies: licensing enforcement.

Existing law requires private or public organizations, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, to obtain a home health agency license before providing or arranging for the provision of skilled nursing services in the home. Existing law provides for licensing of home health agencies by the State Department of Health Services. Existing law gives the department full range of authority over accredited home health agencies to ensure that the licensure and accreditation requirements are met, including the entire scope of enforcement sanctions and options available for unaccredited home health agencies. Existing law makes a violation of these licensing provisions a crime.

This bill would require the department to ensure that unlicensed entities are not providing skilled nursing services in the home, except as specified, would require field staff to be informed of these requirements, and would make technical and conforming changes. The bill would preclude unlicensed entities from using "home health" or similar words in their name or advertising or making related statements. The bill would also preclude unlicensed entities from using the words "skilled" or "nursing," in their name to imply licensure as a home health agency to provide those services. By expanding the definition of a crime, this 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 1725 of the Health and Safety Code is amended to read:

1725. (a) The purpose of this chapter is to require licensure of home health agencies in order to protect the health and safety of the people of California.

(b) All organizations that provide skilled nursing services to patients in the home shall obtain a home health agency license issued by the department.

(c) The department shall establish high standards of quality for home health agencies and ensure that unlicensed entities are not providing skilled nursing services in the home, except as set forth in Section 1726.

(d) The department shall require that the appropriate field staff be informed of the proper protocols and procedures to document, report, and investigate reported incidents of unlicensed facilities providing skilled nursing services in the home in order to protect public health and to facilitate statewide consistency in documenting and investigating those entities.

SEC. 2. Section 1726 of the Health and Safety Code is amended to read:

1726. (a) No private or public organization, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, shall provide, or arrange for the provision of, skilled nursing services in the home in this state without first obtaining a home health agency license.

(b) No private or public organization, including, but not limited to, any partnership, corporation, or political subdivision of the state, or other governmental agency within the state, shall do any of the following unless it is licensed under this chapter:

(1) Represent itself to be a home health agency by its name or advertisement, soliciting, or any other presentments to the public, or in the context of services within the scope of this chapter imply that it is licensed to provide those services or to make any reference to employee bonding in relation to those services.

(2) Use the words “home health agency,” “home health,” “home-health,” “homehealth,” or “in-home health,” or any combination of those terms, within its name.

(3) Use the words “skilled” or “nursing,” or any combination of those terms within its name, to imply that it is licensed as a home health agency to provide those services.

(c) In implementing the system of licensing for home health agencies, the department shall distinguish between the functions of a home health agency and the functions of an employment agency or a licensed nurses’ registry pursuant to Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code. An employment agency or a licensed nurses’ registry performing its functions as specified in Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code is not required to secure a home health agency license under subdivision (a), unless it is performing the functions of a home health agency, as defined in this chapter. However, subdivision (b) shall apply to an employment agency or a licensed nurses’ registry that is not licensed under this chapter.

(d) A hospice is not required to secure a home health agency license under subdivision (a). However, subdivision (b) shall apply to a hospice that is not licensed under this chapter.

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.

Approved _____, 2005

Governor