

AMENDED IN SENATE MARCH 23, 2010

**SENATE BILL**

**No. 1119**

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**Introduced by Senator Wright**

February 17, 2010

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*An act to amend Sections 1812.540, 1812.542, 1812.543, and 1812.544 of the Civil Code, relating to health care.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1119, as amended, Wright. Health care staffing.

*The Employment Agency, Employment Counseling, and Job Listing Services Act, the violation of which is a misdemeanor, regulates the business of employment agencies, including nurses' registries, as defined. Existing law requires an employment agency that refers temporary licensed nursing staff, as defined, to an employer who is a licensed long-term health care facility, as defined, to provide the employer with (1) written verification that the person is in good standing with the Board of Registered Nursing or Board of Vocational Nursing and Psychiatric Technicians, as applicable, and has successfully secured a criminal record clearance, (2) the individual's professional license and registration number and date of expiration, (3) a statement that the person has had a health examination, as specified, and (4) written verification that the individual referred does not have any unresolved allegations against him or her involving mistreatment, neglect, or abuse of a patient, as specified. Existing law also requires these agencies to adopt policies and procedures regarding prevention of resident or patient abuse by temporary staff.*

*This bill would impose those requirements on an employment agency that refers temporary licensed nursing staff to any health facility, as defined. The bill would also make conforming changes.*

*Because this bill would establish additional requirements under the act, the violation of which would be a misdemeanor, 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.*

~~Existing law provides for the licensure and regulation of various health care professionals, including physicians and surgeons and nurses, by boards within the Department of Consumer Affairs. Existing law defines and regulates locum tenens agencies that place health care licensees with clients. Existing law also requires a business that provides telephone medical advice services to be registered with the Telephone Medical Advice Service Bureau within the department.~~

~~This bill would specify findings and declarations of the Legislature regarding the need for regulation of businesses that provide medical staff to hospitals and other medical entities, including travel health companies and nursing registries. The bill would also declare the intent of the Legislature to enact legislation to regulate these businesses.~~

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

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

1     SECTION 1. Section 1812.540 of the Civil Code is amended  
2     to read:

3     1812.540. For purposes of this chapter, the following  
4     definitions shall apply:

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

9     (b) “Nursing service” means the temporary assignment of a  
10    licensed registered nurse, licensed vocational nurse, or psychiatric  
11    technician to render nursing and basic care services to a patient  
12    ~~who is a resident of a long-term~~ *one or more patients at a health*  
13    *care facility.*

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

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

5 (e) “*Health facility*” means a licensed facility, as defined in  
6 *Section 1250 of the Health and Safety Code*.

7 *SEC. 2. Section 1812.542 of the Civil Code is amended to read:*

8 1812.542. Every employment agency that refers temporary  
9 licensed nursing staff to an employer who is a licensed long-term  
10 health-care facility shall provide the employer with all of the  
11 following:

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

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

27 *SEC. 3. Section 1812.543 of the Civil Code is amended to read:*

28 1812.543. (a) An employment agency that makes referrals of  
29 licensed nursing staff *for temporary employment in a health facility*,  
30 or certified nurse assistants for temporary employment in a  
31 long-term health care facility shall adopt policies and procedures  
32 regarding prevention of resident or patient abuse by temporary  
33 staff.

34 (b) The employment agency shall provide written verification  
35 to the long-term health care facility *or health facility* that any  
36 certified nurse assistants or licensed nursing staff, *respectively*,  
37 referred by the agency do not have any unresolved allegations  
38 against them involving the mistreatment, neglect, or abuse of a  
39 patient, including injuries of unknown source and misappropriation  
40 of resident property.

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

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

9 (e) An employment agency shall require that any employee  
10 referred to a ~~long-term care~~ *health* facility be identified as a  
11 temporary staff person in the facility's daily staffing levels required  
12 to be posted in accordance with the standards set forth in Section  
13 941 of Appendix F of Public Law 106-554 (42 U.S.C. Sec.  
14 1395i-3(b)(8) and 42 U.S.C. Sec. 1395r(b)(8)).

15 *SEC. 4. Section 1812.544 of the Civil Code is amended to read:*  
16 1812.544. (a) Every employment agency that makes referrals  
17 of licensed nursing staff *for temporary employment in a health*  
18 *facility* or certified nurse assistants for temporary employment in  
19 a long-term health care facility shall maintain a record of all  
20 advertisements, showing the date of publication and the publication  
21 in which the advertisement appeared, for a period of one year from  
22 the date of the advertisement.

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

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

38 *SEC. 5. No reimbursement is required by this act pursuant to*  
39 *Section 6 of Article XIII B of the California Constitution because*  
40 *the only costs that may be incurred by a local agency or school*

1 *district will be incurred because this act creates a new crime or*  
2 *infraction, eliminates a crime or infraction, or changes the penalty*  
3 *for a crime or infraction, within the meaning of Section 17556 of*  
4 *the Government Code, or changes the definition of a crime within*  
5 *the meaning of Section 6 of Article XIII B of the California*  
6 *Constitution.*

7 ~~SECTION 1. The Legislature finds and declares the following:~~

8 ~~(a) California currently regulates businesses that provide~~  
9 ~~telephone medical advice services to a patient. However, California~~  
10 ~~does not regulate businesses that provide medical staff to hospitals~~  
11 ~~and other medical facilities.~~

12 ~~(b) The temporary nurse staffing industry is estimated to range~~  
13 ~~from 3,000 to 6,000 agencies nationwide. Nearly 6 percent of~~  
14 ~~registered nurses in the United States are licensed in California.~~  
15 ~~Approximately 19,000 California licensed nurses work as~~  
16 ~~temporary nurses.~~

17 ~~(c) In December 2009, the Los Angeles Times published an~~  
18 ~~expose revealing a wide range of agencies with varying, and in~~  
19 ~~many cases almost no, standards for determining the licensing,~~  
20 ~~competency, and background of nurses sent to health care facilities.~~

21 ~~(d) It is in the public interest for patients and health care~~  
22 ~~institutions that temporary nurses meet minimum standards of~~  
23 ~~licensure and competency.~~

24 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~  
25 ~~providing for the licensure and regulation of businesses that provide~~  
26 ~~medical staff to hospitals and other medical entities, including~~  
27 ~~travel health companies and nursing registries, in order to ensure~~  
28 ~~that an applicant for a temporary position has the basic skills,~~  
29 ~~competency, licensure, and credentials necessary to provide~~  
30 ~~high-quality medical care to patients.~~