AMENDED IN SENATE MARCH 23, 2010

SENATE BILL No. 1119

Introduced by Senator Wright

February 17, 2010

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.


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

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

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 one or more patients at a 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.

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

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

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.

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

1812.543. (a) An employment agency that makes referrals of licensed nursing staff for temporary employment in a health facility, 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 or health facility that any certified nurse assistants or licensed nursing staff, respectively, 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 health 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)).

SEC. 4. Section 1812.544 of the Civil Code is amended to read:

1812.544. (a) Every employment agency that makes referrals of licensed nursing staff for temporary employment in a health facility 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 in health facilities 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. 5. 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.

SECTION 1. The Legislature finds and declares the following:
(a) California currently regulates businesses that provide
telephone medical advice services to a patient. However, California
does not regulate businesses that provide medical staff to hospitals
and other medical facilities:
(b) The temporary nurse staffing industry is estimated to range
from 3,000 to 6,000 agencies nationwide. Nearly 6 percent of
registered nurses in the United States are licensed in California.
Approximately 19,000 California licensed nurses work as
temporary nurses:
(c) In December 2009, the Los Angeles Times published an
expose revealing a wide range of agencies with varying, and in
many cases almost no, standards for determining the licensing,
competency, and background of nurses sent to health care facilities:
(d) It is in the public interest for patients and health care
institutions that temporary nurses meet minimum standards of
licensure and competency.

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