

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1710**

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**Introduced by Assembly Member Yamada**

February 15, 2012

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An act to amend Sections ~~1266.9~~, 1416.36, and 1416.38, and 1416.70 of, and to add Section 1416.71 to, the Health and Safety Code, relating to health and care facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1710, as amended, Yamada. Nursing home administrators: fees and fines.

Existing law, the Nursing Home Administrators' Act, provides for the licensing of nursing home administrators by the State Department of Public Health. Existing law prescribes specified licensing fees, and requires that the fees be adjusted annually, as directed by the Legislature in the annual Budget Act, by an amount not to exceed the California Consumer Price Index, as specified. *Existing law provides for the issuance of citations and administrative fines for the violation of any state or federal statute or regulation governing licensed nursing home administrators.* Existing law requires that these fees and associated fines be deposited in the Nursing Home Administrator's State License Examining Fund, a continuously appropriated fund.

This bill would *eliminate the Nursing Home Administrator's State License Examining Fund and* instead require that these fees and fines be deposited into a continuously appropriated account, which would be established as the Nursing Home Administrator Licensing Account in the State Department of Public Health Licensing and Certification Program Fund. This bill would authorize the department to adjust these

*the fees, and would remove the adjustment limitation relating to the California Consumer Price Index. Because the bill would authorize an increase in the amount of fees deposited into a continuously appropriated account, the bill would make an appropriation.*

This bill would require the department, by January 15 of each year, to prepare certain reports relating to nursing home administrator fees, fee adjustments, and nursing home administration generally. The bill would require the department to submit these reports to the appropriate policy and fiscal committees of the Legislature and to post these reports on its Internet Web site.

~~The bill also would make a technical, conforming change relating to the Nursing Home Administrator’s State License Examining Fund.~~

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

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

1     ~~SECTION 1. Section 1266.9 of the Health and Safety Code is~~  
2     ~~amended to read:~~

3     ~~1266.9. (a) There is hereby created in the State Treasury the~~  
4     ~~State Department of Public Health Licensing and Certification~~  
5     ~~Program Fund. The revenue collected in accordance with Section~~  
6     ~~1266 shall be deposited in the State Department of Public Health~~  
7     ~~Licensing and Certification Program Fund and shall be available~~  
8     ~~for expenditure, upon appropriation by the Legislature, to support~~  
9     ~~the department’s Licensing and Certification Program’s operation.~~  
10    ~~Interest earned on the moneys in the fund shall be deposited as~~  
11    ~~revenue into the fund to support the department’s Licensing and~~  
12    ~~Certification Program’s operation.~~

13    ~~(b) There is hereby created in the State Department of Public~~  
14    ~~Health Licensing and Certification Program Fund the Nursing~~  
15    ~~Home Administrator Licensing Account. The fees collected~~  
16    ~~pursuant to Section 1416.38 shall be deposited into the account~~  
17    ~~and shall be continuously appropriated as specified in Section~~  
18    ~~1416.38.~~

19    ~~SEC. 2.~~

20    ~~SECTION 1. Section 1416.36 of the Health and Safety Code~~  
21    ~~is amended to read:~~

22    ~~1416.36. (a) The fees prescribed by this chapter are as follows:~~

- 1 (1) The application fee for reviewing an applicant's eligibility  
2 to take the examination shall be twenty-five dollars (\$25).
- 3 (2) The application fee for persons applying for reciprocity  
4 consideration licensure under Section 1416.40 shall be fifty dollars  
5 (\$50).
- 6 (3) The application fee for persons applying for the AIT Program  
7 shall be one hundred dollars (\$100).
- 8 (4) The examination fees shall be:
- 9 (A) Two hundred seventy-five dollars (\$275) for an automated  
10 national examination.
- 11 (B) Two hundred ten dollars (\$210) for an automated state  
12 examination or one hundred forty dollars (\$140) for a written state  
13 examination.
- 14 (5) The fee for an initial license shall be one hundred ninety  
15 dollars (\$190).
- 16 (6) The renewal fee for an active or inactive license shall be  
17 one hundred ninety dollars (\$190).
- 18 (7) The delinquency fee shall be fifty dollars (\$50).
- 19 (8) The duplicate license fee shall be twenty-five dollars (\$25).
- 20 (9) The fee for a provisional license shall be two hundred fifty  
21 dollars (\$250).
- 22 (10) The fee for endorsement of credentials to the licensing  
23 authority of another state shall be twenty-five dollars (\$25).
- 24 (11) The preceptor certification fee shall be fifty dollars (\$50)  
25 for each three-year period.
- 26 (12) The biennial fee for approval of a continuing education  
27 provider shall be one hundred fifty dollars (\$150).
- 28 (13) The biennial fee for approval of a continuing education  
29 course shall be not more than fifteen dollars (\$15).
- 30 (b) If the revenue projected to be collected is less than the  
31 projected costs for the budget year, the department may propose  
32 that fees be adjusted to an amount sufficient to cover the reasonable  
33 regulatory costs to the department. Commencing February 1, 2013,  
34 and every February 1 thereafter, the department shall publish a list  
35 of proposed adjustments to fees pursuant to this section.
- 36 (c) (1) The department shall, within 30 days of the enactment  
37 of the annual Budget Act each year, publish a list of actual  
38 numerical fee charges as adjusted pursuant to this section. The  
39 final fee list, with an explanation of any adjustment, shall be  
40 published by all of the following means:

1 (A) Issuing a letter to all licensed nursing home administrators,  
2 all skilled nursing facilities and intermediate care facilities, and  
3 all continuing education providers.

4 (B) Posting the list on the department’s Internet Web site.

5 (C) Including the final fee list as part of the licensing application  
6 package.

7 (2) This adjustment of fees and the publication of the fee list  
8 shall not be subject to the requirements of Chapter 3.5  
9 (commencing with Section 11340) of Part 1 of Division 3 of Title  
10 2 of the Government Code.

11 (d) (1) By January 15 of each year, the department shall prepare  
12 the following reports and shall make those reports available to the  
13 public by submitting them to the appropriate policy and fiscal  
14 committees of the Legislature, and by posting them on the  
15 department’s Internet Web site:

16 (A) A report of all costs to implement activities required by this  
17 chapter. As part of this report, the department shall recommend  
18 adjustments to fees based on projected workload and costs. The  
19 cost estimates and estimated fees shall be based on appropriation  
20 amounts in the Governor’s proposed budget for the next fiscal  
21 year.

22 (B) A staffing and systems analysis to ensure efficient and  
23 effective utilization of fees collected and proper allocation of  
24 departmental resources for the administration of activities required  
25 by this chapter. This analysis shall include the following  
26 information for the current fiscal year and each of the previous  
27 four fiscal years:

28 (i) The number of persons applying for a nursing home  
29 administrator’s license, the number of nursing home administrator  
30 licenses approved or denied, and the number of nursing home  
31 administrator licenses renewed.

32 (ii) The number of applicants taking the nursing home  
33 administrator exam and the number of applicants who pass or fail  
34 the exam.

35 (iii) The number of persons applying for, accepted into, and  
36 completing the AIT Program.

37 (iv) The number, source, and disposition of complaints made  
38 against persons in the AIT Program and licensed nursing home  
39 administrators, including the length of time between receipt of the  
40 complaint and completion of the investigation.

1 (v) The number and type of final administrative, remedial, or  
2 disciplinary actions taken against licensed nursing home  
3 administrators.

4 (vi) A listing of the names and nature of violations for individual  
5 licensed nursing home administrators, including final  
6 administrative, remedial, or disciplinary actions taken.

7 (vii) The number of appeals, informal conferences, or hearings  
8 filed by nursing home administrators or held, the length of time  
9 between the request being filed and the final determination of the  
10 appeal, and the number of administrative, remedial, or disciplinary  
11 actions taken.

12 (2) The reports required to be submitted pursuant to paragraph  
13 (1) shall be submitted in compliance with Section 9795 of the  
14 Government Code.

15 ~~SEC. 3.~~

16 *SEC. 2.* Section 1416.38 of the Health and Safety Code is  
17 amended to read:

18 1416.38. ~~(a)~~ Within 10 days after the beginning of every  
19 month, all fees collected by the program for the month preceding,  
20 under this chapter, shall be paid into the ~~Nursing Home~~  
21 ~~Administrator Licensing Account~~ in the State Department of Public  
22 Health Licensing and Certification Program Fund established by  
23 Section 1266.9:

24 ~~(b) The Nursing Home Administrator Licensing Account shall~~  
25 ~~be continuously appropriated to the program for expenditures in~~  
26 ~~the manner prescribed by law to defray the expenses of the program~~  
27 ~~and in carrying out and enforcing the provisions of this chapter.~~

28 ~~SEC. 4.~~ Section 1416.71 is added to the Health and Safety  
29 Code, to read:

30 ~~1416.71. The Nursing Home Administrator's State License~~  
31 ~~Examining Board Fund in the Professions and Vocations Fund in~~  
32 ~~the State Treasury is renamed the Nursing Home Administrator's~~  
33 ~~State License Examining Fund and continued in existence in the~~  
34 ~~State Treasury.~~

35 *SEC. 3.* Section 1416.70 of the Health and Safety Code is  
36 amended to read:

37 1416.70. (a) The program shall establish a system for the  
38 issuance of citations to licensees, examinees, or participants of  
39 any program activity offered or approved by the program. The  
40 citations may contain an order of abatement, an order to pay an

1 administrative fine assessed by the program chief, or both, where  
2 the licensee, examinee, or participant is in violation of any state  
3 or federal statute or regulation governing licensed nursing home  
4 administrators.

5 (b) The system shall contain all of the following provisions:

6 (1) Citations shall be in writing and shall describe with  
7 particularity the nature of the violation, including specific reference  
8 to the provision of law determined to have been violated.

9 (2) Where appropriate, the citation shall contain an order of  
10 abatement fixing reasonable time for abatement of the violation.

11 (3) (A) Administrative fines assessed by the program shall be  
12 separate from and shall not preclude the levying of any other fines  
13 or any civil or criminal penalty.

14 (B) In no event shall the administrative fine assessed by the  
15 program be less than fifty dollars (\$50) or exceed two thousand  
16 five hundred dollars (\$2,500) for each violation. The total  
17 assessment shall not exceed ten thousand dollars (\$10,000) for  
18 each investigation or for counts involving fraudulent billings  
19 submitted to insurance companies, Medi-Cal, or Medicare  
20 programs.

21 (4) In assessing a fine, the program shall give due consideration  
22 to the appropriateness of the amount of the fine with respect to  
23 factors such as the gravity of the violation, the good faith effort of  
24 the licensee, examinee, or participant, the unprofessional conduct,  
25 including, but not limited to, incompetence and negligence in the  
26 performance of the duties and responsibilities of an administrator,  
27 the extent to which the cited person has mitigated or attempted to  
28 mitigate any damage or injury caused by his or her violation,  
29 whether the violation was related to patient care, the history of any  
30 previous violations, and other matters as may be appropriate.

31 (5) A citation or fine assessment issued pursuant to a citation  
32 shall inform the licensee, examinee, or participant, that if he or  
33 she desires a hearing to contest the finding of a violation, the  
34 hearing shall be requested by written notice to the program within  
35 30 days after the date of issuance of the citation or assessment. A  
36 licensee may, in lieu of contesting a citation pursuant to this  
37 section, transmit to the state department 75 percent of the amount  
38 specified in the citation for each violation within 15 business days  
39 after the issuance of the citation.

1 (6) Failure of a licensee, examinee, or participant to pay a fine  
2 within 30 days of the date of the assessment, unless the citation is  
3 being appealed, may result in further disciplinary action being  
4 taken by the program. Where a citation is not contested and a fine  
5 is not paid, the full amount of the assessed fine, along with any  
6 accrued penalty interest, shall be added to the fee for renewal of  
7 the license. A license shall not be renewed without payment of the  
8 renewal fee, fine, and accrued interest penalty. A citation may be  
9 issued without the assessment of an administrative fine.

10 (c) Assessment of administrative fines may be limited to only  
11 particular violations of the applicable licensing act.  
12 Notwithstanding any other provisions of law, where a fine is paid  
13 to satisfy an assessment based on the finding of a violation,  
14 payment of the fine shall be represented as satisfactory resolution  
15 of the matter for purposes of public disclosures. Administrative  
16 fines collected pursuant to this section shall be deposited in the  
17 ~~Nursing Home Administrator's State License Examining Fund~~  
18 *State Department of Public Health Licensing and Certification*  
19 *Program Fund established by Section 1266.9.*