

Introduced by Senator Mendoza
(Coauthor: Assembly Member Levine)

February 27, 2015

An act to amend Sections 1400 and 1401 of, and to add Sections 1402, 1409.4, 1409.5, 1409.6, 1409.7, and 1409.8 to, the Health and Safety Code, relating to health and care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 648, as introduced, Mendoza. Health and care facilities: referral agencies.

Existing law requires a health care referral agency to obtain a license from the State Department of Public Health in order to refer a person to any extended care facility, skilled nursing home, or intermediate care facility. Existing law exempts a local public agency performing referral services without cost from these provisions. Under existing law, a violation of these provisions is subject to a civil penalty and suspension or revocation of the license.

This bill would additionally require a referral agency to obtain a license in order to refer a person to a residential care facility for the elderly. The bill would require a referral agency to visit an extended care facility, skilled nursing home, intermediate care facility, or residential care facility for the elderly one month after a person moves to that facility as a result of the referral. The bill would prohibit a referral agency from holding any power of attorney or any other property of a client. The bill would require that referral agencies provide specified written notice to each person receiving its services. The bill would also require referral agencies to maintain liability insurance in specified amounts.

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

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

1 SECTION 1. Section 1400 of the Health and Safety Code is
 2 amended to read:
 3 1400. (a) It is unlawful for any person, association, or
 4 corporation to establish, conduct, or maintain a referral agency or
 5 to refer any person for remuneration to any extended care *facility*,
 6 skilled nursing home ~~or~~, intermediate care facility, *or residential*
 7 *care facility for the elderly*, or a distinct part of a facility providing
 8 extended care, skilled nursing home care, or intermediate care,
 9 without first having obtained a written license ~~therefor~~ as provided
 10 in this chapter from the director or from an inspection service
 11 approved by the director pursuant to Section 1257.
 12 (b) It is unlawful for any person, association, or corporation to
 13 establish, conduct, or maintain a referral agency or to refer any
 14 person for remuneration to any person or agency outside a
 15 long-term health care facility, as defined in Section 1418, for
 16 professional services for which the long-term health care facility
 17 does not employ a qualified professional person to furnish a
 18 specific service, including, but not limited to, laboratory,
 19 diagnostic, or therapy services, unless the long-term health care
 20 facility complies with current federal and state laws regarding the
 21 provision of these services and all of the following conditions are
 22 met:
 23 (1) The services will be provided in accordance with
 24 professional standards applicable to the provision of these services
 25 in a long-term health care facility.
 26 (2) The long-term health care facility assumes responsibility
 27 for timeliness of the services.
 28 (3) Services are provided or obtained only when ordered by the
 29 attending physician and a notation is made in the resident’s medical
 30 chart reflecting that the service has been provided to the resident.
 31 (c) *It is unlawful for any person, association, or corporation to*
 32 *establish, conduct, or maintain a referral agency or to refer any*
 33 *person for remuneration to any residential care facility for the*
 34 *elderly for professional services if that facility does not meet the*

1 *licensing standards established in Chapter 3.2 (commencing with*
2 *Section 1560).*

3 SEC. 2. Section 1401 of the Health and Safety Code is amended
4 to read:

5 1401. As used in this chapter “referral agency” means a private,
6 profit or nonprofit agency ~~which~~ *that* is engaged in the business
7 of referring persons for remuneration to any extended care *facility*,
8 skilled nursing home ~~or~~, intermediate care facility, *or residential*
9 *care facility for the elderly*, or a distinct part of a facility providing
10 extended care, skilled nursing home care, or intermediate care.

11 SEC. 3. Section 1402 is added to the Health and Safety Code,
12 to read:

13 1402. “Residential care facility for the elderly” has the same
14 meaning as set forth in Section 1569.2.

15 SEC. 4. Section 1409.4 is added to the Health and Safety Code,
16 to read:

17 1409.4. (a) A licensee shall provide each person receiving
18 services from the licensee with written notice, in 16-point bold
19 type, of all of the following:

20 (1) The commission or fee that will be received by the licensee
21 from the facility as a result of the referral, if applicable.

22 (2) Any exchange of monetary value, including, but not limited
23 to, a fee, commission, or gift received, between the facility
24 personnel or staff and the licensee and the purpose for the
25 exchange, if applicable.

26 (3) Any fee charged to the person or persons by the licensee.
27 The notice shall include a description of the services being rendered
28 for that fee and the licensee’s refund policy.

29 (4) The licensee’s privacy policy. The privacy policy shall be
30 placed clearly and prominently at the front of the written notice.

31 (5) A detailed review or summary of the licensee’s most recent
32 inspection or tour, including the date of the inspection or tour, of
33 the facility that is being recommended for referral and the
34 frequency of the licensee’s review of the facility.

35 (6) Information regarding the health care services the referred
36 facility offers, including, but not limited to, intermittent skilled
37 nursing care, memory care, assistance and distribution of
38 medication, and other health care services.

39 (7) The contact information, including address and phone
40 number, of the State Department of Social Services or State

1 Department of Public Health, as appropriate, and the contact
2 information for filing consumer complaints.

3 (b) The licensee shall retain a signed acknowledgment from the
4 person stating that the person received the written notice required
5 by this section. The acknowledgment shall be retained for a period
6 of no less than four years.

7 SEC. 5. Section 1409.5 is added to the Health and Safety Code,
8 to read:

9 1409.5. If a person moves to an extended care facility, skilled
10 nursing home, intermediate care facility, or residential care facility
11 for the elderly as a result of a referral, the licensee shall make a
12 scheduled visit to the facility within one month of that move.

13 SEC. 6. Section 1409.6 is added to the Health and Safety Code,
14 to read:

15 1409.6. It is unlawful for a licensee to share any personal
16 information, including, but not limited to, the name, address, age,
17 gender, or medical information of the person receiving services
18 from the licensee, with any unauthorized person.

19 SEC. 7. Section 1409.7 is added to the Health and Safety Code,
20 to read:

21 1409.7. It is unlawful for a licensee to hold any power of
22 attorney for a person receiving placement referral services from
23 that licensee, or to receive or hold a client's property in any
24 capacity.

25 SEC. 8. Section 1409.8 is added to the Health and Safety Code,
26 to read:

27 1409.8. On or after July 1, 2016, all persons, associations, or
28 corporations licensed pursuant to this chapter shall maintain
29 liability insurance coverage in an amount of at least one million
30 dollars (\$1,000,000) per referred person and three million dollars
31 (\$3,000,000) in the total annual aggregate, for negligent acts or
32 omissions by the licensee.