

AMENDED IN SENATE APRIL 7, 2015

SENATE BILL

No. 648

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 amended, 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.~~ *at a time designated by the licensee and client within a reasonable time after a move is completed as a result of a referral from that referral agency.* 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, intermediate care facility, or residential care
7 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 as provided in this
10 chapter from the director or from an inspection service approved
11 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

1 person for remuneration to any residential care facility for the
2 elderly for professional services if that facility does not meet the
3 licensing standards established in Chapter 3.2 (commencing with
4 Section 1560).

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

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

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

15 1402. “Residential care facility for the elderly” has the same
16 meaning as set forth in Section 1569.2.

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

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

22 (1) *Whether the licensee has an agreement or contract with the*
23 *referral facility for client referrals.*

24 ~~(1) The~~

25 (2) *That a commission or fee that will be received by the*
26 *licensee from the facility as a result of the referral, if applicable.*

27 ~~(2)~~

28 (3) *Any exchange of monetary value, including, but not limited*
29 *to, a fee, commission, or gift received, between the facility*
30 *personnel or staff and the licensee and the purpose for the*
31 *exchange, if applicable.*

32 ~~(3)~~

33 (4) *Any fee charged to the person or persons by the licensee.*
34 *The notice shall include a description of the services being rendered*
35 *for that fee and the licensee’s refund policy.*

36 ~~(4)~~

37 (5) *The licensee’s contact information, including address and*
38 *telephone number, and the licensee’s privacy policy. The privacy*
39 *policy shall be placed clearly and prominently at the front of the*
40 *written notice.*

1 ~~(5) A detailed review or summary of the licensee’s most recent~~
 2 ~~inspection or tour, including the date of the inspection or tour, of~~
 3 ~~the facility that is being recommended for referral and the~~
 4 ~~frequency of the licensee’s review of the facility.~~

5 *(6) The date of the licensee’s most recent tour or visit to the*
 6 *facility and, as appropriate, a review or summary of the most*
 7 *recent evaluation report for a residential care facility for the*
 8 *elderly prepared pursuant to Section 1569.33.*

9 ~~(6)~~
 10 (7) Information regarding the health care services the referred
 11 facility offers, including, but not limited to, intermittent skilled
 12 nursing care, memory care, assistance *with* and distribution of
 13 medication, and other health care services, *if applicable*.

14 ~~(7)~~
 15 (8) The contact information, including address and phone
 16 number, of the State Department of Social Services or State
 17 Department of Public Health, as appropriate, and the contact
 18 information for filing consumer complaints, *including contact*
 19 *information for the local long-term care ombudsman.*

20 *(b) The licensee shall provide the written notification pursuant*
 21 *to subdivision (a) in the same language in which the licensee*
 22 *negotiates any referral services with the person receiving services.*

23 ~~(b)~~
 24 (c) The licensee shall retain a signed acknowledgment from the
 25 person *being referred, or his or her conservator, guardian, family*
 26 *member, or agent under a power of attorney, stating that the person*
 27 ~~received the written notice required by this section~~ *was received.*
 28 The acknowledgment shall be retained for a period of no less than
 29 four years.

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

32 1409.5. If a person moves to an extended care facility, skilled
 33 nursing home, intermediate care facility, or residential care facility
 34 for the elderly as a result of a referral, the licensee shall make a
 35 scheduled visit to the facility ~~within one month of that move:~~ *at a*
 36 *time designated by the licensee and client within a reasonable time*
 37 *after the move is completed.*

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

1 1409.6. It is unlawful for a licensee to share any personal
2 information, including, but not limited to, the name, address, age,
3 gender, or medical information of the person receiving services
4 from the licensee, with any unauthorized person *or third-party*
5 *affiliate of the licensee*.

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

8 1409.7. It is unlawful for a licensee to hold any power of
9 attorney for a person receiving placement referral services from
10 that licensee, or to receive or hold a client's property in any
11 capacity.

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

14 1409.8. On or after July 1, 2016, all persons, associations, or
15 corporations licensed pursuant to this chapter shall maintain
16 liability insurance coverage in an amount of at least one million
17 dollars (\$1,000,000) per referred person and three million dollars
18 (\$3,000,000) in the total annual aggregate, for negligent acts or
19 omissions by the licensee.