

Introduced by Senator Mello

February 20, 1996

An act to amend Sections 1265 and 1267.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1649, as introduced, Mello. Health facilities: disclosure.

Existing law requires certain information to be provided to the State Department of Health Services by an applicant for a license to operate a health facility, including, but not limited to, evidence that the applicant possesses financial resources sufficient to operate certain facilities for a period of at least 45 days.

This bill would require that this evidence of financial resources be without income from the operation of the facility.

Existing law requires that this information provided to the department, also, include the names and addresses of any persons or organizations listed as owner of record in the real estate of the facility.

This bill would, instead, require the information to include the names and addresses of any persons or organizations listed as owner of 1% or more of a beneficial interest in the real estate of the facility.

This bill would require that the information provided to the department be made available to the public upon request and be included in the department's public file of the facility.

Existing law requires disclosure of the names and addresses of any person or organization, or both, having an ownership

or control interest of 5% or more in a management company that operates, or proposes to operate, the facility under a management contract. Existing law requires this and other ownership or control information to be provided to the department upon initial application for licensure, and requires changes in the information to be provided to the department on an annual basis.

This bill would, rather, require disclosure of the names and addresses of any person or organization, or both, having an ownership or control interest of 5% or more in a management company that operates, or proposes to operate in whole or in part, the facility under a management contract, and would require changes in this information be provided to the department upon annual renewal of the license.

Existing law provides that if the department fails to approve or disapprove the application within 30 days after receipt thereof, the application shall be deemed approved.

This bill would, rather, provide that if the department fails to approve the application for licensure within 30 days after receipt thereof, the application shall be deemed disapproved.

Existing law authorizes the department to deny an application for licensure if a person named in the application was an officer, director, general partner, or owner of a 5% or greater beneficial interest in a licensee, or a management company under contract with a licensee, of certain facilities at a time when one or more violations of law were committed therein that resulted in suspension or revocation of its license, or at a time when a court-ordered receiver was appointed pursuant to prescribed provisions of law.

This bill would add a time when a final Medi-Cal decertification action was taken under federal law to this list of situations that may be the bases for denial of an application.

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 1265 of the Health and Safety
- 2 Code is amended to read:



1 1265. Any person, political subdivision of the state, or
2 governmental agency desiring a license for a health
3 facility or approval for a special service under this chapter
4 shall file with the state department a verified application
5 on forms prescribed and furnished by the state
6 department, containing all of the following:

7 (a) The name of the applicant and, if an individual,
8 whether the applicant has attained the age of 18 years.

9 (b) The type of facility or health facility.

10 (c) The location thereof.

11 (d) The name of the person in charge thereof.

12 (e) Evidence satisfactory to the state department that
13 the applicant is of reputable and responsible character. If
14 the applicant is a firm, association, organization,
15 partnership, business trust, corporation, or company, like
16 evidence shall be submitted as to the members or
17 shareholders thereof, and the person in charge of the
18 health facility for which application for license is made.
19 If the applicant is a political subdivision of the state or
20 other governmental agency, like evidence shall be
21 submitted as to the person in charge of the health facility
22 for which application for license is made.

23 (f) Evidence satisfactory to the state department of
24 the ability of the applicant to comply with this chapter
25 and of rules and regulations promulgated under this
26 chapter by the state department.

27 (g) Evidence satisfactory to the department that the
28 applicant to operate a skilled nursing facility or
29 intermediate care facility possesses financial resources
30 sufficient to operate the facility for a period of at least 45
31 days *without income from the operation*.

32 (h) Each applicant for a license to operate a skilled
33 nursing facility or intermediate care facility shall disclose
34 to the state department evidence of the right to
35 possession of the facility at the time the application will
36 be granted, ~~which~~ *that* may be satisfied by the submission
37 of a copy of applicable portions of a lease agreement or
38 deed of trust. The names and addresses of any persons or
39 organizations listed as owner of ~~record~~ *1 percent or more*
40 *of a beneficial interest* in the real estate, including the



1 buildings and the grounds appurtenant to the buildings,
2 shall be disclosed to the state department.

3 (i) Any other information as may be required by the
4 state department for the proper administration and
5 enforcement of this chapter.

6 (j) Upon submission of an application to the state
7 department by an intermediate care
8 facility/developmentally disabled habilitative or an
9 intermediate care facility/developmentally
10 disabled—nursing, the application shall include a
11 statement of need signed by the chairperson of the area
12 board pursuant to Chapter 4 (commencing with Section
13 4570) of Division 4.5 of the Welfare and Institutions Code.
14 In the event the area board has not provided the
15 statement of need within 30 days of receipt of the request
16 from the applicant, the state department may process the
17 application for license without the statement.

18 (k) *The information required pursuant to this section*
19 *shall be made available to the public upon request, and*
20 *shall be included in the department's public file*
21 *regarding the facility.*

22 SEC. 2. Section 1267.5 of the Health and Safety Code
23 is amended to read:

24 1267.5. (a) (1) Each applicant for a license to
25 operate a skilled nursing facility or intermediate care
26 facility shall disclose to the state department the name
27 and business address of each general partner if the
28 applicant is a partnership, or each director and officer if
29 the applicant is a corporation, and each person having a
30 beneficial ownership interest of 5 percent or more in the
31 applicant corporation or partnership.

32 (2) If any person described in paragraph (1) has
33 served or currently serves as an administrator, general
34 partner, trustee or trust applicant, sole proprietor of any
35 applicant or licensee who is a sole proprietorship,
36 executor, or corporate officer or director of, or has held
37 a beneficial ownership interest of 5 percent or more in,
38 any other skilled nursing facility or intermediate care
39 facility or in any community care facility licensed
40 pursuant to Chapter 3 (commencing with Section 1500)



1 of this division, the applicant shall disclose the
2 relationship to the state department, including the name
3 and current or last address of the health facility or
4 community care facility and the date ~~such~~ *the*
5 relationship commenced and, if applicable, the date it
6 was terminated.

7 (3) If the facility is operated by, or proposed to be
8 operated *in whole or part* under, a management contract,
9 the names and addresses of any person or organization, or
10 both, having an ownership or control interest of 5 percent
11 or more in the management company shall be disclosed
12 to the state department. This provision shall not apply if
13 the management company has submitted an application
14 for licensure with the state department and has complied
15 with paragraph (1).

16 (4) If the applicant or licensee is a subsidiary of
17 another organization, the information shall include the
18 names and addresses of the parent organization of the
19 subsidiary and the names and addresses of any officer or
20 director of the parent organization.

21 The information required by this subdivision shall be
22 provided to the state department upon initial application
23 for licensure, and changes in the information shall be
24 provided to the state department ~~on an annual basis~~ *upon*
25 *annual renewal of the license*. Failure to comply with this
26 section may result in action to revoke or deny a license.
27 The information required by this section shall be made
28 available to the public upon request, and shall be included
29 in the public file of the facility.

30 (b) On and after January 1, 1990, no person may
31 acquire a beneficial interest of 5 percent or more in any
32 corporation or partnership licensed to operate a skilled
33 nursing facility or intermediate care facility, or in any
34 management company under contract with a licensee of
35 a skilled nursing facility or intermediate care facility, nor
36 may any person become an officer or director of, or
37 general partner in, ~~such~~ a corporation, partnership, or
38 management company *of this type* without the prior
39 written approval of the state department. Each
40 application for departmental approval pursuant to this



1 subdivision shall include the information specified in
2 subdivision (a) as regards the person for whom the
3 application is made.

4 If the state department fails to approve ~~or disapprove~~
5 the application within 30 days after receipt thereof, the
6 application shall be deemed ~~approved~~ *disapproved*.

7 (c) The state department may deny approval of a
8 license application or of an application for approval under
9 subdivision (b) if a person named in the application, as
10 required by this section, was an officer, director, general
11 partner, or owner of a 5-percent or greater beneficial
12 interest in a licensee of, or in a management company
13 under contract with a licensee of, a skilled nursing facility,
14 intermediate care facility, community care facility, or
15 residential care facility for the elderly at a time when one
16 or more violations of law were committed therein ~~which~~
17 *that* resulted in suspension or revocation of its license, or
18 at a time when a court-ordered receiver was appointed
19 pursuant to Section 1327, *or at a time when a final*
20 *Medi-Cal decertification action was take under federal*
21 *law*. However, the prior suspension, revocation, or
22 court-ordered receivership of a license shall not be
23 grounds for denial of the application if the applicant
24 shows to the satisfaction of the state department (1) that
25 the person in question took every reasonably available
26 action to prevent the violation or violations ~~which~~ *that*
27 resulted in the disciplinary action and (2) that he or she
28 took every reasonably available action to correct the
29 violation or violations once he or she knew, or with the
30 exercise of reasonable diligence should have known of,
31 the violation or violations.

32 (d) No application shall be denied pursuant to this
33 section until the state department first (1) provides the
34 applicant with notice in writing of grounds for the
35 proposed denial of application, and (2) affords the
36 applicant an opportunity to submit additional
37 documentary evidence in opposition to the proposed
38 denial.

39 (e) Nothing in this section shall cause any individual to
40 be personally liable for any civil penalty assessed pursuant



1 to Chapter 2.4 (commencing with Section 1417) of this
2 division or create any new criminal or civil liability
3 contrary to general laws limiting ~~such~~ *that* liability.

4 (f) This section shall not apply to a bank, trust
5 company, financial institution, title insurer, controlled
6 escrow company, or underwritten title company to which
7 a license is issued in a fiduciary capacity.

8 (g) As used in this section, “person” has the same
9 meaning as specified in Section 19.

10 (h) This section shall not apply to the directors of a
11 nonprofit corporation exempt from taxation under
12 Section 23701d of the Revenue and Taxation Code ~~which~~
13 *that* operates a skilled nursing facility or intermediate
14 care facility in conjunction with a licensed residential
15 facility, where the directors serve without financial
16 compensation and are not compensated by the nonprofit
17 corporation in any other capacity.

