

AMENDED IN ASSEMBLY JULY 7, 1996

AMENDED IN SENATE MAY 1, 1996

AMENDED IN SENATE APRIL 22, 1996

SENATE BILL

No. 1649

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 amended, 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 2% or more of a beneficial interest in the real estate of the facility *instead require that the applicant possess*~~

financial resources sufficient to operate the facility and would delete the 45 day requirement.

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 unless the state department extends the application review period beyond 30 days.

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:
3 1265. Any person, political subdivision of the state, or
4 governmental agency desiring a license for a health
5 facility or approval for a special service under this chapter
6 shall file with the state department a verified application
7 on forms prescribed and furnished by the state
8 department, containing all of the following:
9 (a) The name of the applicant and, if an individual,
10 whether the applicant has attained the age of 18 years.
11 (b) The type of facility or health facility.
12 (c) The location thereof.
13 (d) The name of the person in charge thereof.
14 (e) Evidence satisfactory to the state department that
15 the applicant is of reputable and responsible character. If
16 the applicant is a firm, association, organization,
17 partnership, business trust, corporation, or company, like
18 evidence shall be submitted as to the members or
19 shareholders thereof, and the person in charge of the
20 health facility for which application for license is made.
21 If the applicant is a political subdivision of the state or
22 other governmental agency, like evidence shall be
23 submitted as to the person in charge of the health facility
24 for which application for license is made.
25 (f) Evidence satisfactory to the state department of
26 the ability of the applicant to comply with this chapter
27 and of rules and regulations promulgated under this
28 chapter by the state department.
29 (g) Evidence satisfactory to the department that the
30 applicant to operate a skilled nursing facility or
31 intermediate care facility possesses financial resources



1 sufficient to operate the facility ~~for a period of at least 45~~
2 ~~days without income from the operation.~~

3 (h) Each applicant for a license to operate a skilled
4 nursing facility or intermediate care facility shall disclose
5 to the state department evidence of the right to
6 possession of the facility at the time the application will
7 be granted, that may be satisfied by the submission of a
8 copy of applicable portions of a lease agreement or deed
9 of trust. The names and addresses of any persons or
10 organizations listed as owner of ~~2 percent or more of a~~
11 ~~beneficial interest~~ record in the real estate, including the
12 buildings and the grounds appurtenant to the buildings,
13 shall be disclosed to the state department.

14 (i) Any other information as may be required by the
15 state department for the proper administration and
16 enforcement of this chapter.

17 (j) Upon submission of an application to the state
18 department by an intermediate care
19 facility/developmentally disabled habilitative or an
20 intermediate care facility/developmentally
21 disabled—nursing, the application shall include a
22 statement of need signed by the chairperson of the area
23 board pursuant to Chapter 4 (commencing with Section
24 4570) of Division 4.5 of the Welfare and Institutions Code.
25 In the event the area board has not provided the
26 statement of need within 30 days of receipt of the request
27 from the applicant, the state department may process the
28 application for license without the statement.

29 (k) The information required pursuant to this section
30 shall be made available to the public upon request, and
31 shall be included in the department's public file
32 regarding the facility.

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

35 1267.5. (a) (1) Each applicant for a license to
36 operate a skilled nursing facility or intermediate care
37 facility shall disclose to the state department the name
38 and business address of each general partner if the
39 applicant is a partnership, or each director and officer if
40 the applicant is a corporation, and each person having a



1 beneficial ownership interest of 5 percent or more in the
2 applicant corporation or partnership.

3 (2) If any person described in paragraph (1) has
4 served or currently serves as an administrator, general
5 partner, trustee or trust applicant, sole proprietor of any
6 applicant or licensee who is a sole proprietorship,
7 executor, or corporate officer or director of, or has held
8 a beneficial ownership interest of 5 percent or more in,
9 any other skilled nursing facility or intermediate care
10 facility or in any community care facility licensed
11 pursuant to Chapter 3 (commencing with Section 1500)
12 of this division, the applicant shall disclose the
13 relationship to the state department, including the name
14 and current or last address of the health facility or
15 community care facility and the date the relationship
16 commenced and, if applicable, the date it was
17 terminated.

18 (3) If the facility is operated by, or proposed to be
19 operated in whole or part under, a management contract,
20 the names and addresses of any person or organization, or
21 both, having an ownership or control interest of 5 percent
22 or more in the management company shall be disclosed
23 to the state department. This provision shall not apply if
24 the management company has submitted an application
25 for licensure with the state department and has complied
26 with paragraph (1).

27 (4) If the applicant or licensee is a subsidiary of
28 another organization, the information shall include the
29 names and addresses of the parent organization of the
30 subsidiary and the names and addresses of any officer or
31 director of the parent organization.

32 The information required by this subdivision shall be
33 provided to the state department upon initial application
34 for licensure, and changes in the information shall be
35 provided to the state department upon annual renewal of
36 the license. Failure to comply with this section may result
37 in action to revoke or deny a license. The information
38 required by this section shall be made available to the
39 public upon request, and shall be included in the public
40 file of the facility.



1 (b) On and after January 1, 1990, no person may
2 acquire a beneficial interest of 5 percent or more in any
3 corporation or partnership licensed to operate a skilled
4 nursing facility or intermediate care facility, or in any
5 management company under contract with a licensee of
6 a skilled nursing facility or intermediate care facility, nor
7 may any person become an officer or director of, or
8 general partner in, a corporation, partnership, or
9 management company of this type without the prior
10 written approval of the state department. Each
11 application for departmental approval pursuant to this
12 subdivision shall include the information specified in
13 subdivision (a) as regards the person for whom the
14 application is made.

15 If the state department fails to approve the application
16 within 30 days after receipt thereof, the application shall
17 be deemed disapproved unless the state department
18 extends the application review period beyond 30 days.

19 (c) The state department may deny approval of a
20 license application or of an application for approval under
21 subdivision (b) if a person named in the application, as
22 required by this section, was an officer, director, general
23 partner, or owner of a 5-percent or greater beneficial
24 interest in a licensee of, or in a management company
25 under contract with a licensee of, a skilled nursing facility,
26 intermediate care facility, community care facility, or
27 residential care facility for the elderly at a time when one
28 or more violations of law were committed therein that
29 resulted in suspension or revocation of its license, or at a
30 time when a court-ordered receiver was appointed
31 pursuant to Section 1327, or at a time when a final
32 Medi-Cal decertification action was take under federal
33 law. However, the prior suspension, revocation, or
34 court-ordered receivership of a license shall not be
35 grounds for denial of the application if the applicant
36 shows to the satisfaction of the state department (1) that
37 the person in question took every reasonably available
38 action to prevent the violation or violations that resulted
39 in the disciplinary action and (2) that he or she took every
40 reasonably available action to correct the violation or



1 violations once he or she knew, or with the exercise of
2 reasonable diligence should have known of, the violation
3 or violations.

4 (d) No application shall be denied pursuant to this
5 section until the state department first (1) provides the
6 applicant with notice in writing of grounds for the
7 proposed denial of application, and (2) affords the
8 applicant an opportunity to submit additional
9 documentary evidence in opposition to the proposed
10 denial.

11 (e) Nothing in this section shall cause any individual to
12 be personally liable for any civil penalty assessed pursuant
13 to Chapter 2.4 (commencing with Section 1417) of this
14 division or create any new criminal or civil liability
15 contrary to general laws limiting that liability.

16 (f) This section shall not apply to a bank, trust
17 company, financial institution, title insurer, controlled
18 escrow company, or underwritten title company to which
19 a license is issued in a fiduciary capacity.

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

22 (h) This section shall not apply to the directors of a
23 nonprofit corporation exempt from taxation under
24 Section 23701d of the Revenue and Taxation Code that
25 operates a skilled nursing facility or intermediate care
26 facility in conjunction with a licensed residential facility,
27 where the directors serve without financial
28 compensation and are not compensated by the nonprofit
29 corporation in any other capacity.

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