

## Senate Bill No. 1649

### CHAPTER 567

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

[Approved by Governor September 15, 1996. Filed  
with Secretary of State September 17, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1649, 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.

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 payment of the 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, require the department to approve or disapprove the application for licensure within 30 days after receipt thereof, unless the state department, with just cause, 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.

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

SECTION 1. Section 1265 of the Health and Safety Code is amended to read:

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

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

(b) The type of facility or health facility.

(c) The location thereof.

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

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

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

(g) Evidence satisfactory to the department that the applicant to operate a skilled nursing facility or intermediate care facility possesses financial resources sufficient to operate the facility for a period of at least 45 days.

(h) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department evidence of the right to possession of the facility at the time the application will be granted, that may be satisfied by the submission of a copy of applicable portions of a lease agreement or deed of trust. The names and addresses of any persons or organizations listed as owner of record in the real estate, including the buildings and the grounds appurtenant to the buildings, shall be disclosed to the state department.



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

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

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

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

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

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

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

(4) If the applicant or licensee is a subsidiary of another organization, the information shall include the names and addresses



of the parent organization of the subsidiary and the names and addresses of any officer or director of the parent organization.

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

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

The state department shall approve or disapprove the application within 30 days after receipt thereof, unless the state department, with just cause, extends the application review period beyond 30 days.

(c) The state department may deny approval of a license application or of an application for approval under subdivision (b) if a person named in the application, as required by this section, was an officer, director, general partner, or owner of a 5-percent or greater beneficial interest in a licensee of, or in a management company under contract with a licensee of, a skilled nursing facility, intermediate care facility, community care facility, or residential care facility for the elderly 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 Section 1327, or at a time when a final Medi-Cal decertification action was taken under federal law. However, the prior suspension, revocation, or court-ordered receivership of a license shall not be grounds for denial of the application if the applicant shows to the satisfaction of the state department (1) that the person in question took every reasonably available action to prevent the violation or violations that resulted in the disciplinary action and (2) that he or she took every reasonably available action to correct the violation or violations once he or she knew, or with the exercise of reasonable diligence should have known of, the violation or violations.

(d) No application shall be denied pursuant to this section until the state department first (1) provides the applicant with notice in



writing of grounds for the proposed denial of application, and (2) affords the applicant an opportunity to submit additional documentary evidence in opposition to the proposed denial.

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

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

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

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

