

AMENDED IN ASSEMBLY JUNE 28, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 12, 2011

SENATE BILL

No. 408

Introduced by Senator Hernandez

February 16, 2011

An act to add Section 1265.9 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 408, as amended, Hernandez. Health facilities: licensure.

Existing law provides for the licensure and regulation of health facilities administered by the State Department of Public Health. A violation of these provisions is a crime.

Existing law requires those desiring a license for a health facility, approval for a specified special service, or approval to manage a specified type of licensed health facility, that have not filed an application for a license to operate that facility, to file with the department a verified application on forms prescribed and furnished by the department, containing specified information.

Existing law provides that any requirement placed upon, or reference to, a corporation in the provisions regulating health facilities shall also apply to a limited liability company.

This bill would require a new license application to be filed for a health facility, as defined, when there is a change of ownership, as defined, ~~or a change in ownership, as defined~~. This bill would also require a prescribed notice to be filed with the department prior to a

change in ownership—~~change of ownership~~, as defined, or change in control interest, as defined, ~~or for~~ certain health facilities.

Because this bill expands the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1265.9 is added to the Health and Safety
2 Code, to read:

3 1265.9. (a) For purposes of this section, the following
4 definitions shall apply:

5 (1) “Change of ownership” means any of the following:

6 (A) For a partnership, the removal, addition, or substitution of
7 a partner.

8 (B) For an unincorporated sole proprietorship, the transfer of
9 title and property to another person.

10 (C) For a corporation, the merger of the applicant’s or provider’s
11 corporation into another corporation, or the consolidation of two
12 or more corporations, resulting in the creation of a new corporation.
13 The transfer of corporate stock or the merger of another corporation
14 into the applicant’s or provider’s corporation does not constitute
15 a change of ownership.

16 (D) For a lease, the lease of all or part of an applicant’s or
17 provider’s facility constitutes a change of ownership of the leased
18 portion.

19 (2) “Change in ownership” means a transaction where ~~there is~~
20 ~~a change of ownership~~ and any of the following occurs:

21 (A) A sale, transfer, lease, exchange, conveyance, or other
22 disposal of a limited partnership interest, corporate shares, or
23 limited liability company interest representing at least 20 percent
24 of all ownership interests in a health facility that is described in
25 subdivision (a), (b), or (f) of Section 1250 or in the current
26 licenseholder.

(B) The merger of an entity that owns or operates a health facility described in subdivision (a), (b), or (f) of Section 1250 that does not result in a change in the taxpayer identification number of the licenseholder.

(C) A substitution of a new corporate member or member of the governing body, or any arrangement, written or oral, that would transfer voting control of, ~~or responsibility for, or governance of,~~ a health facility described in subdivision (a), (b), or (f) of Section 1250. *A substitution of a new corporate member or member of the governing body shall not constitute a change in ownership when the substitution occurs in the usual and regular course of the activities of a health facility described in subdivision (a), (b), or (f) of Section 1250.*

(3) “Change in control interest” means a transaction where any of the following, except a change of ownership or change in ownership, occurs:

(A) A sale, transfer, lease, exchange, conveyance, or other disposal of a limited partnership interest, corporate shares, or limited liability company interest representing at least 10 percent of all ownership interests in a health facility described in subdivision (a), (b), or (f) of Section 1250, or in the licenseholder, but that represents less than 20 percent of the ownership interests in the health facility or licenseholder.

(B) A change in any member of the governing body or principal officers of a health facility described in subdivision (a), (b), or (f) of Section 1250 that does not transfer voting control of, ~~or responsibility for,~~ the health facility.

(b) A new license application for a health facility described in subdivision (a), (b), (c), (d), or (f) of Section 1250 shall be filed when there is a change of ownership in the health facility.

(c) At least 45 days prior to a ~~change of ownership,~~ change in ownership, or change in control interest in a health facility that is described in subdivision (a), (b), or (f) of Section 1250, a notice of the change shall be filed with the department. If the transaction is a change in ownership, a new license application shall be filed with the notice. If the transaction is a change of control interest, a State Department of Public Health form HS 215A shall be filed with the notice.

(d) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the

1 Government Code, the department may implement this section by
2 means of all facility letters, or similar instructions, without taking
3 further regulatory action.

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.