

Assembly Bill No. 1502

CHAPTER 578

An act to amend Sections 1265 and 1267.5 of, and to add Sections 1253.2 and 1253.3 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 27, 2022. Filed with
Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1502, Muratsuchi. Freestanding skilled nursing facilities.

Existing law requires the State Department of Public Health to license, inspect, and regulate skilled nursing facilities, as defined, and prohibits a person, firm, partnership, association, corporation, or political subdivision of the state, or other governmental agency within the state from operating, establishing, managing, conducting, or maintaining a skilled nursing facility in this state, without first obtaining a license from the department. Existing law prohibits a person from acquiring a beneficial interest of 5% or more in any corporation or partnership licensed to operate a skilled nursing facility, or in any management company under contract with a licensee of a skilled nursing facility, or from becoming an officer or director of, or general partner in, a corporation, partnership, or management company without the prior written approval of the department. Existing law requires a licensee for a skilled nursing facility to provide written notice of a proposed change in licensee or management company to all residents of the facility and their representatives at least 90 days prior to a finalization of the sale, transfer of operation, or other change or transfer of ownership interests, except as specified. Existing law requires an applicant for a skilled nursing facility or intermediate care facility to submit certain information to the department, such as the name and address of a parent organization if the applicant is a subsidiary of another organization, and report any changes to that information within 30 days. Existing law imposes criminal penalties on a person who violates the licensing and regulatory requirements imposed on skilled nursing facilities.

This bill would prohibit a person or an applicant for licensure from acquiring, operating, establishing, managing, conducting, or maintaining a freestanding skilled nursing facility without first obtaining a license from the department for that purpose. The bill would also apply the licensure requirement to a change of ownership or a change in management of such a facility. The bill would specify the requirements to apply for a license, after July 1, 2023, including evidence that the applicant is reputable and responsible to assume the license or management and evidence of specified financial capacity, and, if the applicant is part of a chain, providing a diagram indicating the relationship between the applicant and the persons or entities,

as defined, that are part of the chain. The bill would require an applicant for a skilled nursing facility or intermediate care facility to report any changes in information in an application 30 days prior to that change, except as specified. The bill would make all applications prepared in relation to these provisions public records, except as specified under any applicable federal or state privacy laws. The bill would authorize or require the department to deny an application for licensure, or to revoke a license, under certain circumstances. By expanding the duties on licensees, this bill would expand an existing crime, thereby imposing a state-mandated local program.

The bill would authorize the department to take specified actions, including imposing civil penalties, if an applicant acquires, operates, establishes, manages, conducts, or maintains a skilled nursing facility before the department acts on its application or following the denial of its application, or if the person does not first apply to the department for a license. The bill would specify that its provisions do not preclude the department from taking additional state or federal enforcement actions, as specified, including misdemeanor penalties for willful or repeated violations. The bill would require the department to ensure a facility's operation is transitioned to a qualified operator, following the denial of an application.

The bill would authorize the department, subsequent to licensure, to assess a civil penalty of \$10,000 for a material violation of these provisions.

The bill would specify that its provisions do not apply to a skilled nursing facility operated as a distinct part of an acute care hospital or to a receiver or temporary manager appointed in accordance with other laws. The bill would require the department to convene a stakeholder group on or before April 1, 2023, to determine the feasibility of establishing a new methodology to calculate application fees.

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.

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

SECTION 1. This act shall be known as the Skilled Nursing Facility Ownership and Management Reform Act of 2022.

SEC. 2. The Legislature finds and declares all of the following:

(a) The protection of residents in California's skilled nursing facilities is of paramount importance to the citizens of California.

(b) Pursuant to Section 1422 of the Health and Safety Code, it is the public policy of this state to ensure that long-term health care facilities provide the highest level of care possible.

(c) No factor has more impact on the quality of care in a skilled nursing facility than its owner.

(d) A large-scale national study of skilled nursing facility transactions over two decades concluded that there is tremendous churn in chain ownership, the dominance in chain ownership is growing, chains targeted the worst-quality skilled nursing facilities for acquisition, poor quality of care persisted in these facilities after they were acquired, and skilled nursing facilities owned by chains had much worse records than other facilities.

(e) California's system for screening skilled nursing facility owners is in need of reform.

(f) It is, therefore, the intent of the Legislature to enact legislation that would do all of the following:

(1) Establish reputability and responsibility standards for persons and entities seeking to acquire, operate, establish, or manage skilled nursing facilities in California.

(2) Direct the State Department of Public Health to screen all persons and entities seeking licenses to acquire, operate, establish, or manage skilled nursing facilities.

(3) Require owners and operators, including nursing home chains, to obtain prior approval from the State Department of Public Health before acquiring, operating, establishing, managing, conducting, or maintaining a skilled nursing facility.

(4) Implement enforcement actions for failure to apply or seek approval prior to acquiring, operating, or managing a skilled nursing facility.

(5) Prohibit the use of interim or longer-term management agreements unless an application has been submitted and approved by the State Department of Public Health.

(6) Provide sanctions to deter owners and operators from acquiring, operating, establishing, managing, conducting, or maintaining a freestanding skilled nursing facility before the State Department of Public Health approves its application or following the department's denial of its application, or without first applying to and obtaining a license from the department for that purpose.

SEC. 3. Section 1253.2 is added to the Health and Safety Code, to read: 1253.2. As used in Section 1253.3, the following definitions shall apply:

(a) "Applicant" means any person, as defined in Section 19, that has submitted an application for a license, pursuant to Section 1265, to operate a health facility as defined under subdivision (k).

(b) "Application" means those materials, set forth in Section 1265, that an applicant submits to the department for a license to operate a health facility.

(c) "Beneficial ownership interest" means any of the following:

(1) The possession by a person, as defined in Section 19, of an ownership interest, including a combination of direct and indirect ownership interests, totaling 5 percent or more in any licensed health facility.

(2) An ownership interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by a licensee or applicant for licensure of a health facility if that interest equals at least 5 percent of the value of the property or assets of the applicant or licensed health facility.

(3) Is an officer or director of a licensed health facility or applicant for licensure of a health facility that is organized as a corporation.

(4) Is a partner in a licensed health facility or applicant for licensure of a health facility that is organized as a partnership.

(5) Is a member of a licensed health facility or applicant for licensure of a health facility that is organized as a limited liability company.

(d) “Chain” means a group of two or more licenses that are owned directly or indirectly, as defined in this section, by the same persons, companies, or entities.

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

(1) For a partnership, the removal, addition, or substitution of a partner.

(2) For a corporation, the merger of the applicant’s or licensee’s corporation into another corporation, or the consolidation of two or more corporations of the licensee, resulting in the creation of a new corporation; however, the transfer of corporate stock, the merger of another corporation into the applicant’s or licensee’s corporation, or the approved lawful conversion of a corporation to a limited liability company does not constitute a change of ownership.

(3) For a limited liability company, the merger of the applicant’s or licensee’s limited liability company into another limited liability company, or the consolidation of two or more limited liability companies, of the licensee, resulting in the creation of a new limited liability company; however, the transfer of limited liability company interest, the merger of another limited liability company into the applicant’s or licensee’s limited liability company or the approved lawful conversion of a limited liability company to a corporation does not constitute a change of ownership.

(4) The sale, conveyance, transfer, or disposition of title and property of a licensed health facility or licensee of a licensed health facility to another person or entity who is not the licensee where, as a result of the sale, conveyance, transfer or disposition, the licensee has lost the right to possess and occupy the physical structures, buildings, or real property that comprise the operational location of the health facility approved by the department.

(5) The lease of all or part of the health facility’s property and assets to a person or entity who is not the licensee, where the lease is either a new lease or a transfer, sublease, or assignment of the licensee’s right to possess or occupy the physical structures, buildings, or real property that comprise the operational location of the health facility approved by the department.

(f) “License” means a basic permit to operate a health facility with an authorized number and classification of beds. A license shall not be transferable.

(g) “Manage” means to assume operational control over a facility, to make financial decisions for the facility, to direct or control aspects of patient care and quality within the facility, or to be involved in the hiring, firing, supervision, and direction of direct care staff when these actions are completed by a management company hired, retained, or authorized to act on behalf of a licensee. Manage does not include financing exchanged between multifacility organizations.

(h) “Managing employee” means any general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts, the day-to-day operations of a licensed health facility.

(i) “Management company” means an entity that directly or indirectly conducts the day-to-day operations or exercises managerial control of a health facility licensed by the department but is not the licensee.

(j) “Ownership interest” means the possession of equity in the capital, the stock, the principal property and assets, or the profits of the licensed health facility. An ownership interest may be either direct or indirect.

(1) A direct ownership interest is an interest in the licensed health facility or applicant for licensure of a health facility.

(2) An indirect ownership interest is an ownership interest in an entity that itself has an ownership interest in a licensed health facility or of an applicant for licensure of a health facility.

(k) “Operate” means to own, lease, sublease, establish, maintain, conduct the affairs of, or manage a skilled nursing facility.

(l) “Parent corporation” or “parent organization” means an organization that is the legal entity owning a controlling interest in an organization licensed by the department. The parent organization is the “ultimate” parent, or the top entity in a hierarchy (which may include other parent organizations) of subsidiary organizations that is not itself a subsidiary of any corporation. A legal entity may be its own parent organization if it is not a subsidiary of any other organization.

SEC. 4. Section 1253.3 is added to the Health and Safety Code, to read:

1253.3. (a) No person, as defined in Section 19, nor an applicant for licensure, change of ownership, or change of management shall acquire, either directly or indirectly, an ownership interest in a skilled nursing facility nor operate, establish, manage, conduct, or maintain a skilled nursing facility prior to department review, approval, and issuance of a license under this chapter.

(1) An applicant for a license under this section shall submit an application to the department at least 120 calendar days prior to acquiring, operating, establishing, managing, conducting, or maintaining a skilled nursing facility.

(2) A licensee or party that plans to relinquish ownership, operations, or management of a skilled nursing facility shall report the change to the department on a form provided by the department 120 calendar days prior to the anticipated change of ownership. No licensee may relinquish ownership, operations, or management of a skilled nursing facility until the department completes its review and approval of the application of the prospective licensee or management company.

(3) Notwithstanding the requirements of this section, if a facility is subject to receivership under Section 1325, subject to temporary management under Section 1325.5, at immediate risk of decertification, license revocation or suspension or closure, or other exigent circumstances exist that the department in its discretion concludes that the health and safety of the

residents would be best served by bringing in an interim manager, the applicant may request an expedited application review. The applicant shall submit a complete application to the department. The department shall expedite the determination that the applicant is reputable and responsible to assume the facility's license. The applicant may operate the facility once the reputability and responsibility assessment has been conducted while the remainder of the application review occurs. The interim manager may only operate the facility until the department completes the application review and approval of the application of the prospective licensee.

(b) This section applies to any form of change of ownership, operations, or management involving a skilled nursing facility, including, but not limited to, the following transactions:

(1) Establishment of interim or longer-term management agreements wherein operational control or management responsibilities are transferred from the owner or licensee to a new entity.

(2) Establishment of any type of agreement with an entity or person to make financial decisions for the facility, to direct or control aspects of patient care and quality within the facility, or to be involved in the hiring, firing, supervision, and direction of direct care staff when these actions are completed by a management company hired, retained, or authorized to act on behalf of a licensee.

(3) The transfer, purchase, or sale of ownership interest in the facility or licensee of 5 percent or more.

(4) Transactions described in Section 1267.5 or 1253 and other applicable laws and regulations.

(5) Sale or transfer of the entity licensed by the department.

(6) The lease of all or part of a facility.

(c) An application for a license under this section shall be filed on forms established and furnished by the department, that shall require, but not be limited to, all of the following information:

(1) Information required by Sections 1265 and 1267.5.

(2) Whether the applicant is a for-profit, not-for-profit, or government entity.

(3) Name and address of the applicant.

(4) Names of all prospective owners and their prospective ownership percentages.

(5) Names of all prospective directors, board members, and managers of the licensee.

(6) Name and address of any and all parent organizations.

(7) Names and addresses of all directors, board members, and managers of any and all parent organizations.

(8) Evidence satisfactory to the department that the applicant is reputable and responsible to assume the facility's license or management of its operations and meets the requirements of this chapter, other applicable laws, and the department's rules and regulations.

(9) Evidence that the applicant has the financial capacity to operate the facility and to provide services required by state and federal laws and regulations for 90 days.

(10) If applicable, all of the following information:

(A) The name, address, license number, and licensing agency name of other skilled nursing, health, residential, or community care facilities owned, managed, or operated by the same applicant or by any parent organization of the applicant.

(B) If part of a chain, a diagram indicating the relationship between the applicant and the persons or entities that are part of the chain and the name, address, and license number, if applicable, for each person or entity in the diagram.

(C) The name and address of any persons, organizations, or entities that own the real property on which the facility seeking licensure and the licensed facilities described in subparagraph (A) are located along with copies of any existing or proposed property or lease agreements.

(D) The name and address of the prospective property owner if the real property is being transferred or sold.

(E) The name and address of any management company that would manage the facility and the same information required of applicants for the management company and copies of any existing or proposed management agreements or contracts between the licensee and the management company.

(11) The name of the chief executive officer, general partner, owner, and that person's prior or present service as an administrator, chief executive officer, general partner, director, or as a person who has held or holds a beneficial ownership interest of 5 percent or more in, any skilled nursing facility, intermediate care facility, residential care facility for the elderly, community care facility, health facility, or a similarly licensed facility in California or any other state within the past five years.

(12) The following information regarding the applicant and each individual or entity identified pursuant to paragraph (11) for the past five years:

(A) Any revocation, suspension, probation, exclusion order, termination of Medicare or Medicaid certification, receivership, appointment of a temporary manager, designation as a special focus facility or special focus facility candidate by the federal Centers for Medicare and Medicaid Services, or other similar administrative enforcement or disciplinary action that was initiated in California or any other state or by the federal government, or is in the process of being adjudicated, against a facility associated with the applicant or a person identified pursuant to paragraph (11), by any authority responsible for the licensing of health, residential, or community care facilities.

(B) Copies of findings, orders, or both, issued by any health, residential, or community care licensing agency, certification agency, or any court relevant to the actions described in subparagraph (A).

(C) Any injunctions, corporate integrity agreements, judgments, or settlements resulting from actions filed by the Attorney General, the

Department of Justice, a district attorney's office, or other federal, state, or local law enforcement agency against the applicant or any facilities that they have owned, operated, or managed.

(D) Any petition for bankruptcy relief involving the applicant's operation or closure of a health, residential, or community care facility licensed in California or any other state, the court, date, and case number of the filing, and whether a discharge was granted. If a discharge was not granted, the applicant shall provide copies of any court findings supporting denial of discharge.

(E) The identity of any skilled nursing facility operated, managed, or owned by the applicant that has been subject to foreclosures, judgment liens, utility cutoffs, or disruptions in staffing, services, or supplies due to failures to meet payroll or pay bills.

(13) The expected date of sale, assignment, lease, change of management company, or other change in the license status of a health facility.

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

(15) Applicable fees.

(d) The information required by this section shall be provided to the department upon initial application for licensure, and any change in the information shall be provided to the department within 10 calendar days of that change unless a shorter timeframe is required by the department. A licensee of multiple facilities may provide a single notice of changes to the department on behalf of all licensed facilities within the chain. This single notice shall clearly identify which changes apply to which facilities within the chain.

(e) The applicant shall provide complete and accurate information to the department.

(f) (1) An applicant's failure to provide complete and accurate information to the department in its submission of an application or the applicant's failure to correct deficiencies in an application noted by the department may be grounds for the denial of the application.

(g) (1) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant withheld information or made a false statement of material fact with regard to information that was required by the application for licensure.

(2) The department may deny an application for licensure or may subsequently revoke a license under this chapter if the applicant did not disclose administrative disciplinary or enforcement actions on the application as required by paragraph (12) of subdivision (c).

(3) The applicant shall provide any additional information related to the consideration of the application regarding the reputability and responsibility of the applicant.

(4) The department shall consider the criminal history of the prospective licensee, or prospective management company, including all officers, directors, or shareholders having a beneficial ownership interest of 5 percent or more in the applicant corporation or partnership, and general or limited

partners thereof, or other individuals or entities enumerated in Section 1267.5. The department's criminal history review shall be in accordance with Sections 1265.1 and 1265.2.

(5) The department shall cross-check all information and evidence submitted by the applicant concerning its reputability and responsibility, including, but not limited to, by verifying ownership and compliance histories through its own records, cross-checking with other licensing agencies in this state, other states, and territories.

(6) If the applicant holds a health care professional's license issued by the state, the department shall contact the appropriate licensing agencies to obtain information about disciplinary actions taken against the licensees and to confirm that their licenses are in good standing.

(7) To the extent not prohibited by federal or state law, the department may obtain any information deemed necessary to make a determination on whether the applicant is reputable and responsible for licensure.

(8) In making a determination on whether an applicant is reputable and responsible, the department shall thoroughly examine the compliance histories of facilities that are or have been owned, operated, or managed by the applicant and of any skilled nursing facility chain that is associated with the applicant. The department's review shall consider compliance histories during the five-year period before the date of the application.

(9) The department may review and consider information and evidence concerning the applicant's reputability and responsibility, including, but not limited to, the department's inspection findings for health facilities owned, operated, or managed by the applicant in the five years prior to the application, including federal and state findings resulting in regulatory violations, citations, other enforcement penalties, temporary manager appointments, findings of violations of required staffing levels, financial instability related to the operation of the health facility, special focus facility status, and any other information the department considers necessary for its determination on whether an applicant is reputable and responsible.

(10) The applicant shall provide or cause to be provided, at the department's request, any additional information related to consideration of the application regarding the reputability and responsibility of the applicant.

(11) The department may deny an application if the applicant fails to establish through the evidence satisfactory to the department submitted pursuant to this section that the applicant is reputable and responsible, has ability to comply with the rules and regulations of the department, and has the education, experience, and financial resources for the operation of the skilled nursing facility.

(12) Any of the following within the prior five years or during the application review period shall automatically disqualify an applicant from being determined reputable and responsible for licensure:

(A) The applicant or anyone with a beneficial ownership interest of 5 percent or more in the applicant entity has owned, operated, or managed a skilled nursing facility, nursing facility, intermediate care facility, assisted

living facility, community care facility, or other type of long-term care facility in this state or any other state or territory that, while under their ownership, operation, or management, was terminated from the federal Medicare program or the Medi-Cal program due to noncompliance, had its license suspended or revoked, or was subjected to receivership or temporary management.

(B) The applicant is on the List of Excluded Individuals/Entities of the United States Department of Health and Human Services Office of Inspector General.

(C) The applicant has owned, operated, or managed a long-term care health facility that, while under their ownership, operation, or management, has been issued two or more of any combination of “AA” citations or “A” citations involving the death of a resident at the facility within a consecutive 24-month period within the prior five years.

(D) The applicant owns, operates, or manages 10 percent or more of the licensed skilled nursing facilities in the state upon the date of submission of the application for licensure to the department, unless the department in its discretion concludes that the interests of resident health and safety requires that an exception is warranted.

(13) Notwithstanding Section 1265.2 or paragraph (4), if the applicant has had a felony conviction related to the services or care provided in a health or community care facility, regardless of the length of time between the date of the application for licensure and the felony conviction, the applicant shall automatically be disqualified from being determined reputable and responsible for licensure.

(h) The department shall review and make a determination within 120 calendar days of an applicant’s submission of a complete application.

(1) The department may extend the 120-day time period by up to an additional 60 calendar days if it cannot complete its determination due to extenuating circumstances. The department shall notify the applicant in writing of the extension and the estimated date of its determination.

(2) If the department determines the application submitted is incomplete, the department shall provide written notice of missing information to the applicant. If the applicant does not submit a completed application within 45 days of notification of missing information, the application shall be denied.

(3) The applicant shall not acquire, operate, establish, manage, conduct, or maintain a skilled nursing facility prior to obtaining a favorable determination from the department on a licensure application. A transfer of ownership, operations, or management of the facility shall not take place prior to the department’s approval, whether interim, long term, or permanent.

(i) If the department approves the application, the department shall notify the applicant in writing if it determines that the applicant is reputable and responsible and has complied with all requirements of this section and other applicable statutory and regulatory requirements for licensure. The applicant and licensee shall notify the department within 10 days of the final transactions effecting the orderly transfer of the health facility operations

from the licensee to the applicant. The final orderly transfer of the health facility operations shall occur no later than 120 days after the department's notice of approval of the application for licensure. The applicant may apply for one 60-day extension notifying the department of the expected date of the transfer, and the reasons for delay in the transfer beyond the initial 120 days from the department's notice.

(j) If the department denies the application, the department shall notify the applicant in writing of its determination and the basis for the determination. Within 20 days of service of the department's notice of denial on the applicant, the applicant may serve upon the director, or the director's designee, a written petition for an appeal and request for administrative hearing regarding the department's denial. Upon timely service by the applicant of the written petition, as set forth in this subdivision, a hearing shall be set and the proceedings shall be conducted in accordance with Article 1 (commencing with Section 131071) of Chapter 2 of Part 1 of Division 112. During the pendency of the appeal, the applicant shall not acquire, operate, establish, manage, conduct, or maintain the facility that is the subject of the appeal, and management and operational control of the facility shall remain with the current licensee.

(k) The following actions may immediately be taken if an applicant acquires, operates, establishes, manages, conducts, or maintains a skilled nursing facility before the department acts on its application, following the department's denial of its application, or in any instance when a person or entity acquires, operates, establishes, manages, conducts, or maintains a skilled nursing facility without first applying to and obtaining a license from the department for that purpose:

(1) If an applicant for licensure or prospective licensee assumes management or operational control of a facility on behalf of a licensee prior to submitting an application to and receiving approval from the department for a license, or if a licensee fails to report changes to the department, as required by this chapter, the department may issue a class "B" citation and civil penalty, in an amount not less than five hundred dollars (\$500) and not exceeding two thousand dollars (\$2,000) for each and every citation. Where a licensee or prospective licensee has failed to correct a violation of this chapter within the time specified in the citation, the department shall assess the licensee or prospective licensee an additional civil penalty in the amount of five hundred dollars (\$500) for each day that the deficiency continues beyond the date specified for correction. If a licensee or prospective licensee desires to contest a class "B" citation assessed under this section, the licensee or prospective licensee shall, within 15 working days after service of the citation, notify the director or the director's designee that they wish to appeal the class "B" citation through the procedures set forth in Section 1428. Nothing in this section shall preclude the department from taking additional state or federal enforcement actions it may determine are necessary to preserve and protect the health and safety of the residents in the skilled nursing facility, including misdemeanor penalties for willful or repeated violations, as provided in Section 1290. Any penalty assessed

pursuant to this paragraph shall be paid prior to the issuance of the permanent license. If at the time of issuance of the permanent license there is a balance due, the remaining balance shall be collected by Medi-Cal offset. Penalties collected pursuant to this paragraph shall be deposited into the State Health Facilities Citation Penalties Account created pursuant to Section 1417.2.

(2) The department may, subsequent to licensure, assess a civil penalty of ten thousand dollars (\$10,000) for a material violation of this section. The civil penalty shall be issued and enforced, except as provided in this subdivision, in the same manner as a class “A” violation, and shall include the right of appeal as specified in Section 1428.

(3) If an applicant acquires, operates, establishes, or manages a facility following the department’s denial of its application, the department shall ensure that the facility’s operation is transitioned to a qualified operator in a manner that will protect the health and safety of the residents.

(4) The facility administrator shall advise all residents, their representatives, and the state and local long-term care ombudsperson offices of the circumstances, and inform them of the sanctions that are being imposed and of the residents’ right to remain at the facility while corrective actions are taken.

(l) If any proposed sale, transfer of operations, or change in management of a facility to an applicant for licensure does not occur after the applicant’s submission of an application for licensure to the department, the licensee shall notify the department within 10 days of the event terminating the sale, transfer, or change, including, but not limited to, the end of contract negotiations or a transaction not closing escrow.

(m) All applications prepared pursuant to this section shall be considered public records, except to the extent the information in the application is confidential or privileged under applicable state or federal privacy laws, pursuant to the Information Practices Act of 1977, or is otherwise exempt under the California Public Records Act.

(n) This section does not apply to a skilled nursing facility that is operated as a distinct part of an acute care hospital or to receivers or temporary managers that are appointed in accordance with state or federal laws. This section does apply to changes of ownership of a distinct part skilled nursing facility that will be separated from the hospital’s license.

(o) This section applies only to license applications or reports of changes submitted after July 1, 2023.

(p) On or before April 1, 2023, the department shall convene a stakeholder group to discuss, review, and determine the feasibility of establishing a new methodology to calculate application fees for skilled nursing facilities that reflect departmental costs to process required applications.

SEC. 5. Section 1265 of the Health and Safety Code is amended to read:

1265. A person, political subdivision of the state, or governmental agency desiring a license for a health facility, approval for a special service under this chapter, or approval to manage a health facility currently licensed as a health facility, as defined in subdivision (a), (b), (c), (d), or (f) of Section 1250, that has not filed an application for a license to operate that facility

shall file with the department a verified application on forms prescribed and furnished by the department, containing all of the following:

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

(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 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 department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter and Chapter 2.4 (commencing with Section 1417) by the 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 90 days. A management company shall not be required to submit this information.

(h) An applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the department evidence of the right to possession of the facility at the time the application will be granted, which 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 department.

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

(j) Upon submission of an application to the 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 department may process the application for license without the statement.

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

(l) With respect to a facility licensed as a health facility, as defined in subdivision (a), (b), or (f) of Section 1250, for purposes of this section, “manage” means to assume operational control of the facility.

(m) With respect to a skilled nursing facility, as defined in subdivision (c) of Section 1250, excluding skilled nursing facilities that are operated as a distinct part of an acute care hospital, for purposes of this section, “manage” means to assume operational control of the facility, to make financial decisions for the facility, to direct or control aspects of patient care and quality within the facility, or to be involved in the hiring, firing, supervision, and direction of direct care staff when these actions are completed by a management company hired, retained, or authorized to act on behalf of a licensee.

SEC. 6. 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) (A) If the facility is operated by, or is 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 or a change of ownership pursuant to this chapter with the state department and has complied with paragraph (1).

(B) If the management company is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the management company and the names and addresses of any officer or director of the parent organizations. The failure to comply with this subparagraph may result in action to revoke or deny a license. However, once the information that is required under this subparagraph is provided, the action to revoke the license shall terminate.

(4) If the applicant or licensee is a subsidiary of one or more other organizations, the information shall include the names and addresses of the parent organizations of the subsidiary and the names and addresses of any officer or director of the parent organizations.

(5) The information required by this subdivision shall be provided to the state department upon initial application for licensure, and any change in the information shall be provided to the state department 30 calendar days prior to that change, except as provided in Section 1253.3.

(6) The information required by this subdivision and by Section 1253.3 shall be provided to the department upon application for a change of ownership or change of management in compliance with the time requirements of Section 1253.3.

(7) Except as provided in subparagraph (B) of paragraph (3), the failure to comply with this section may result in action to revoke or deny a license.

(8) The information required by this section shall be made available to the public upon request, shall be included in the public file of the facility, and by July 1, 2002, shall be included in the department's automated certification licensing administration information management system.

(b) (1) 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.

(2) The state department shall approve or disapprove the application, other than an application submitted pursuant to Section 1253.3, 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 they took every reasonably available action to correct the violation or violations once they 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) 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.

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