

AMENDED IN ASSEMBLY JANUARY 5, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1068**

**Introduced by Assembly Member Campbell**

February 27, 1997

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~~An act to repeal Chapter 3.93 (commencing with Section 1599.60) of, and to repeal and add Chapter 3.9 (commencing with Section 1599) of, Division 2 of the Health and Safety Act to amend Sections 1265.5 and 1276.5 of the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1068, as amended, Campbell. ~~Nursing and long-term care Intermediate care facilities.~~

*Existing law requires the State Department of Health Services to secure a criminal record prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled-habilitative to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location has ever been convicted of a crime other than a minor traffic violation.*

*This bill would apply this criminal record check requirement to an intermediate care facility/developmentally disabled-nursing.*

*Existing law generally requires the administrator of an intermediate care facility/developmentally*

*disabled-habilitative or an intermediate care facility/developmentally disabled-nursing to be either a licensed nursing home administrator or a qualified mental retardation professional. Violation of these provisions, or willful or repeated violations of related regulations constitutes a crime.*

*This bill would require a qualified mental retardation professional to complete at least 6 months of administrative training or demonstrate 6 months of experience in an administrative capacity in a licensed health facility, as defined, to qualify as an administrator of an intermediate care facility for the developmentally disabled under that provision. By changing the definition of an existing crime, this bill 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.*

~~Existing law prescribes the rights of patients in a skilled nursing facility or intermediate care facility and requires that written policies regarding the rights of patients be established and made available to the patient, other designated parties, and the public.~~

~~This bill would revise and recast these provisions. The bill would require the State Department of Health Services to develop a comprehensive resident, client, or patient bill of rights for each of the following categories of long-term health care facilities: skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, intermediate care facilities/developmentally disabled-habilitative, and intermediate care facilities/developmentally disabled-nursing. Each bill of rights would generally include provisions from statutes, state regulations, and federal regulations. The bill would require that these comprehensive bill of rights be a mandatory component of a contract of admission of these facilities.~~

~~This bill would require that all long-term health care facilities, including those not certified to participate in the~~



~~Medicare or Medi-Cal program, afford their residents, clients, or patients certain rights described in federal law.~~

~~Existing law requires that every contract of admission, as defined, of a long-term health facility comply with a prescribed form and contain certain information, terms, and conditions for admission of a patient to the facility. Existing law requires the facility, as directed by the department, to submit a copy of its current contract of admission for review by the department and to submit amendments as they occur. Existing law prescribes various prohibitions with regard to the content of the contract.~~

~~This bill would revise and recast these provisions. The bill would revise the information, terms, and conditions for admission required to be in a contract of admission. The bill would redefine “contract of admission” and add a definition for “long-term health care facility” for purposes of these provisions. The bill would instead require the department to review a copy of the current contract of admission as part of its regular survey of all facilities.~~

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

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

1     ~~SECTION 1. The Legislature finds and declares all of~~  
2     ~~SECTION 1. Section 1265.5 of the Health and Safety~~  
3     ~~Code is amended to read:~~  
4     1265.5. (a) Prior to the initial licensure or renewal of  
5     a license of any person or persons to operate or manage  
6     an intermediate care facility/developmentally disabled  
7     habilitative            or            an            intermediate            care  
8     facility/developmentally disabled nursing, the state  
9     department shall secure from an appropriate law  
10    enforcement agency a criminal record to determine  
11    whether the applicant, facility administrator or manager,  
12    any direct care staff, or any other adult living in the same  
13    location, has ever been convicted of a crime other than  
14    a minor traffic violation. If it is found that the applicant,  
15    facility administrator or manager, any direct care staff, or  
16    any other adult living in the same location, has been so



1 convicted, the application or reapplication shall be  
2 denied, unless otherwise approved pursuant to this  
3 chapter. Nothing in this section shall be construed to  
4 require a criminal record check of a person receiving  
5 services in an intermediate care facility/developmentally  
6 disabled habilitative.

7 (b) For purposes of this section, “direct care staff”  
8 means all facility staff who are trained and experienced  
9 in the care of persons with developmental disabilities and  
10 who directly provide program and nursing services to  
11 clients. Administrative and licensed personnel shall be  
12 considered direct care staff when directly providing  
13 program and nursing services to clients. Nothing in this  
14 section shall be construed to require criminal record  
15 checks of persons employed as consultants.

16 (c) Within 20 days after the employment of any person  
17 specified in subdivision (a), the facility shall submit  
18 fingerprint cards to the department for the purpose of  
19 obtaining a criminal record check.

20 *SEC. 2. Section 1276.5 of the Health and Safety Code*  
21 *is amended to read:*

22 1276.5. (a) The department shall adopt regulations  
23 setting forth the minimum number of equivalent nursing  
24 hours per patient required in skilled nursing and  
25 intermediate care facilities, subject to the specific  
26 requirements of Section 14110.7 of the Welfare and  
27 Institutions Code.

28 (b) (1) For the purposes of this section, “nursing  
29 hours” means the number of hours of work performed  
30 per patient day by aides, nursing assistants, or orderlies  
31 plus two times the number of hours worked per patient  
32 day by registered nurses and licensed vocational nurses  
33 (except directors of nursing in facilities of 60 or larger  
34 capacity) and, in the distinct part of facilities and  
35 freestanding facilities providing care for the  
36 developmentally disabled or mentally disordered, by  
37 licensed psychiatric technicians who perform direct  
38 nursing services for patients in skilled nursing and  
39 intermediate care facilities, except when the skilled



1 nursing and intermediate care facility is licensed as a part  
2 of a state hospital.

3 (2) Concurrent with implementation of the first year  
4 of rates established under the Medi-Cal Long Term Care  
5 Reimbursement Act of 1990 (Article 3.8 (commencing  
6 with Section 14126) of Chapter 7 of Part 3 of Division 9 of  
7 the Welfare and Institutions Code), for the purposes of  
8 this section, “nursing hours” means the number of hours  
9 of work performed per patient day by aides, nursing  
10 assistants, registered nurses, and licensed vocational  
11 nurses (except directors of nursing in facilities of 60 or  
12 larger capacity) and, in the distinct part of facilities and  
13 freestanding facilities providing care for the  
14 developmentally disabled or mentally disordered, by  
15 licensed psychiatric technicians who performed direct  
16 nursing services for patients in skilled nursing and  
17 intermediate care facilities, except when the skilled  
18 nursing and intermediate care facility is licensed as a part  
19 of a state hospital.

20 (c) Notwithstanding Section 1276, the department  
21 shall require the utilization of a registered nurse at all  
22 times if the department determines that the services of  
23 a skilled nursing and intermediate care facility require  
24 the utilization of a registered nurse.

25 (d) (1) Except as otherwise provided by law, the  
26 administrator of an intermediate care  
27 facility/developmentally disabled, intermediate care  
28 facility/developmentally disabled habilitative, or an  
29 intermediate care facility/developmentally  
30 disabled—nursing shall be either a licensed nursing home  
31 administrator or a qualified mental retardation  
32 professional.

33 (2) *To qualify as an administrator for an intermediate*  
34 *care facility for the developmentally disabled, a qualified*  
35 *mental retardation professional shall complete at least six*  
36 *months of administrative training or demonstrate six*  
37 *months of experience in an administrative capacity in a*  
38 *licensed health facility, as defined in Section 1250,*  
39 *excluding those facilities specified in subdivisions (e),*  
40 *(h), and (i).*



1 SEC. 3. No reimbursement is required by this act  
2 pursuant to Section 6 of Article XIII B of the California  
3 Constitution because the only costs that may be incurred  
4 by a local agency or school district will be incurred  
5 because this act creates a new crime or infraction,  
6 eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section  
8 17556 of the Government Code, or changes the definition  
9 of a crime within the meaning of Section 6 of Article  
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government  
12 Code, unless otherwise specified, the provisions of this act  
13 shall become operative on the same date that the act  
14 takes effect pursuant to the California Constitution.

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**All matter omitted in this version of the  
bill appears in the bill as introduced in the  
Assembly, February 27, 1997 (JR 11)**

