
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 1502 (Muratsuchi) - Freestanding skilled nursing facilities

Version: June 27, 2022

Urgency: No

Hearing Date: August 1, 2022

Policy Vote: HEALTH 8 - 0

Mandate: Yes

Consultant: Agnes Lee

Bill Summary: AB 1502 would revise the licensure application and approval process for skilled nursing facilities (SNFs), and prohibits any person, including an applicant for licensure, or change of ownership, or change of management, from acquiring, either directly or indirectly, an ownership interest in a skilled nursing facility, or from operating, establishing, managing, conducting, or maintaining a SNF, prior to review, approval, and issuance of a license by the California Department of Public Health (CDPH).

Fiscal Impact: CDPH estimates annual state staffing costs of approximately \$266,000 (Licensing and Certification Fund), beginning in 2023-24.

Background: Existing law provides for the licensure of health facilities, including SNFs, by the CDPH. Under current law governing change of ownerships (CHOWs), applicants to own or operate a SNF are required to apply and be approved for a license by CDPH. However, nothing in current law prevents a current licensee from selling the underlying nursing home to someone who then applies for a license. A prospective operator can purchase the SNF, but cannot purchase the license. Therefore, a facility can currently be sold to just about anybody, but in doing so, the new owner must enter into a management agreement with the current license holder to operate the facility while waiting for their own license application to be approved. According to CDPH, during this time, the current licensee is still responsible for the care of the residents despite the sale of the business. If the prospective licensee's application is denied, the prospective licensee can no longer run the facility, and management responsibilities would revert back to the current licensee, who may no longer be involved in the operation of the home in any respect. The denied prospective licensee may appeal, and can continue to operate the facility until the appeal is resolved.

Additionally, while current law requires CDPH approval when someone acquires an ownership interest of 5% or more in any corporation or partnership licensed to operate a SNF, or in any management company under contract with a SNF, often times there is a parent company involved that allows corporations operating nursing homes to change hands without triggering this approval.

CDPH issued an All Facilities Letter (AFL) in October of 2018, notifying stakeholders that it was developing regulations governing the CHOW process. The regulatory package addresses what transactions constitute a CHOW, reporting CHOWs to CDPH, and the process for approving CHOWs. CDPH notes that, barring unforeseen adverse circumstances, these regulations may be promulgated in fiscal year 2022-23 or 2023-24.

Proposed Law: Specific provisions of the bill would:

- Require an applicant for a license as a SNF to submit an application to CDPH at least 120 calendar days prior to acquiring, operating, establishing, managing, conducting, or maintaining a SNF.
- Require CDPH, in making a determination on whether an applicant is responsible and reputable, to thoroughly examine the compliance histories of facilities that are or have been owned, operated, or managed by the applicant and of any SNF chain that is associated with the applicant during the five-year period before the date of application.
- Specify conditions that would automatically disqualify an applicant from licensure.
- Prohibit an applicant from acquiring, operating, establishing, managing, conducting, or maintaining a SNF prior to obtaining a favorable determination from CDPH on a licensure application.
- Authorize CDPH to take actions, including imposing civil penalties, for specified violations.

-- END --