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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 2.91. EMPLOYMENT AGENCY, EMPLOYMENT COUNSELING, AND JOB LISTING SERVICES ACT [1812.500 - 1812.544] (*Title 2.91 added by Stats. 1989, Ch. 704, Sec. 2.*)

CHAPTER 7. Nurses' Registries [1812.524 - 1812.533] (*Chapter 7 added by Stats. 1989, Ch. 704, Sec. 2.*)

1812.524. (a) "Nursing service" means the assignment of a nurse, as a private duty, self-employed, licensed registered nurse, licensed vocational nurse, or practical nurse to render service to a patient under the direction or supervision of a physician or surgeon registered to practice in this state.

(b) "Nurses' registry" means a person who engages in the business of obtaining and filling commitments for nursing service. A nurses' registry which makes or plans to make referrals for nurses' employment other than private duty nursing shall comply with Chapters 1 (commencing with Section 1812.500) and 2 (commencing with Section 1812.503) of this title with respect to those referrals.

(c) "Private duty nurse" means a self-employed nurse rendering service in the care of either a physically or mentally ill patient under the direction of a physician or surgeon, but who is paid by either the patient or the designated agent of the patient and who accepts the responsibilities of a self-employed private contractor.

(*Amended by Stats. 1990, Ch. 1256, Sec. 9.*)

1812.525. (a) Every nurses' registry subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the nurses' registry in performance of the contract with the nurse by the nurses' registry or its agents, representatives, or employees while acting within the scope of their employment.

(c) (1) No nurses' registry shall conduct any business without having a current surety bond in the amount prescribed by this title and filing a copy of the bond with the Secretary of State.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the nurses' registry and the Secretary of State, identifying the bond and the date of cancellation or termination.

(3) If any nurses' registry fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the nurses' registry shall cease to conduct any business unless and until a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.

(d) When a deposit has been made in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure, the person asserting a claim against the deposit shall, in lieu of Section 996.430 of the Code of Civil Procedure, establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).

(e) When a person has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."

(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon the expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the nurses' registry, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the nurses' registry by the Secretary of State.

(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a nurses' registry or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of a nurses' registry or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

(Amended by Stats. 2002, Ch. 784, Sec. 18. Effective January 1, 2003.)

1812.526. Nurses' registries may enter into a continuing contract with private duty nurses covering the assignment of those nurses by the nurses' registries. The continuing contract shall state:

(a) The name, address, and telephone number of the nurses' registry.

(b) The name, address, and telephone number of the nurse.

(c) The current fee schedule of the nurses' registry.

(d) The date of its execution by the nurses' registry and the nurse.

(e) The contract shall specify that the provisions thereof are to govern only the assignment of private duty nurses and shall do all of the following:

(1) Designate the nurses' registry as the continuous agent of the nurse for purposes of assignment.

(2) Provide that the contract in effect may be terminated at any time by written notice given by one to the other for any future assignment.

(3) Provide for delivery to the nurse at the time of the execution of the contract a written schedule of the rates of nurses' charges currently agreed to between the nurses' registry and the nurse for the nurse's services to the patient.

(4) State that the nurses' registry will immediately notify the nurse in writing of all subsequent changes in the rates to be charged the patient for services, and that the nurse shall agree to abide by these rates.

(5) Contain express undertakings by the nurses' registry that it shall continuously maintain true and correct records of orders and assignments as provided in this title.

(6) Provide that the nurses' registry shall periodically and at least once each month render to the nurse a written statement of all fees claimed to be due the nurses' registry, and further that the statement shall adequately identify each assignment as to the inception date and period of service covered by the claim, including the name of the patient and the amount of service fee claimed.

(7) Contain appropriate wording advising the nurse of his or her right to dispute the correctness of any service fee claimed by the nurses' registry in the written statement referred to above, and that in the absence of objections within a reasonable time, any such service fee may be presumed to be correctly charged.

(8) Include any other term, condition, or understanding agreed upon between the nurses' registry and the nurse.

(f) Each contract shall be numbered consecutively in original and duplicate, both to be signed by the nurse and the nurses' registry. The original shall be given to the nurse and the duplicate shall be kept on file at the nurses' registry within the nurse's records.

(g) The full agreement between the parties shall be contained in a single document containing those elements set forth in this section.

(Amended by Stats. 1990, Ch. 1256, Sec. 10.)

1812.527. (a) (1) A nurses' registry shall provide a copy of the registry's fee schedule and payment terms to any nurse from whom a fee or deposit is to be received, prior to the nurse being interviewed by the registry.

(2) In the schedule, the maximum fee shall be fixed and shall include the charges of every kind rendered by the nurses' registry in each case or transaction on behalf of the nurse. Changes in the fee schedule may be made, but no change shall become effective until posted for not less than seven days in a conspicuous place in the nurses' registry.

(3) A copy of the schedule in effect shall be kept posted in the nurses' registry in a conspicuous place, and the posted schedule and the changes therein shall be in lettering or printing of not less than standard pica capitals. The date of the taking effect of the schedule and of each change therein shall appear on the posted copies.

(4) A copy of all fee schedules, and of all changes therein, shall be kept on file at the nurses' registry, retrospectively for a period of one year.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.528. It shall be the duty of the nurses' registry to verify in writing the claims as to the experience or training listed on the application and to keep a file of those records in the nurse's folder within the nurses' registry. It shall also be the duty of the person interviewing the jobseeker to require the jobseeker to exhibit his or her license as issued by the Board of Registered Nursing or the Board of Vocational Nurse and Psychiatric Technician Examiners, with a notation to be made on the application by the interviewer that the license has been inspected and the date of expiration of the license.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.529. Each nurses' registry shall continuously maintain in its offices true and correct permanent log sheets and other records which shall disclose, in addition to the other information required, the date and hour of the receipt by the nurses' registry of each order for a private duty nurse, and the date and hour of the making or giving of each assignment to the nurse by the nurses' registry, the name of the nurse assigned, the name of the patient and the address where the nurse is assigned, the name of the attending physician, the date the assignment is to start, the period of actual service for each assignment, and the amount of the fee charged for each assignment. No nurses' registry, his or her agent or employees, shall make any false entry in those records. The nurses' registry shall maintain the log sheets and records required by this section respectively for a period of one year.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.530. (a) No nurses' registry shall accept, directly or indirectly, a registration fee of any kind.

(b) No nurses' registry may take from a nurse a confession of judgment, or promissory note, or an assignment of wages to cover its fees.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.531. No nurses' registry shall divide fees with any physician and surgeon, nurse, hospital, patient, or any agent or employee of any of these.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.532. In the event that a nurses' registry collects from a nurse a fee or expenses for an assignment, and the nurse fails to obtain the assignment, or the nurse fails to be paid for the assignment, the nurses' registry shall upon demand therefor, repay to the nurse the fee and expenses so collected. Unless repayment is made within 48 hours after demand, the nurses' registry shall pay to the nurse an additional sum equal to the amount of the fee.

(Added by Stats. 1989, Ch. 704, Sec. 2.)

1812.533. (a) No nurses' registry shall make, or cause to be made, any false, misleading, or deceptive advertisements or representations concerning the services that registry will provide to nurses.

(b) (1) No nurses' registry shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisements.

(2) All advertisements of a nurses' registry shall contain the correct name of the nurses' registry and one of the following:

(A) The street address of the registry's place of business.

(B) The correct telephone number of the registry at its place of business.

(3) No nurses' registry shall give any false information or make any false promises or representations concerning an assignment or employment to any nurse who registers or applies for an assignment or employment.

(4) No nurses' registry shall, by its name, advertisement, or any other representation, represent itself to be a home health agency, as defined by subdivision (a) of Section 1727 of the Health and Safety Code, or to perform the services of a home health agency. A nurses' registry shall provide a written disclosure to each individual receiving nursing services, as defined in subdivision (a) of Section 1812.524, in his or her place of residence stating that it does not perform the services of a home health agency and clearly describing that it is a nurses' registry only and that any complaints against licensed personnel providing a nursing service shall be brought to the local district attorney and the Department of Consumer Affairs. The address and telephone number of each agency and board to which complaints are required to be submitted shall be provided to all patients prior to the time they are under the care of any nursing services personnel.

(5) Any person may refer complaints concerning nurses' registries to the proper law enforcement agency for action.

(c) Every nurses' registry shall maintain a record of all advertisements, correlated to show the date and the publication in which the advertisement appeared, retrospectively for a period of one year.

(Amended by Stats. 1990, Ch. 761, Sec. 2.)