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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 8. Long-Term Care Facilities [1812.540 - 1812.544] (*Chapter 8 added by Stats. 2001, Ch. 326, Sec. 2.*)

1812.540. For purposes of this chapter, the following definitions shall apply:

- (a) "Direct care service" means the temporary assignment of certified nurse assistants to render basic care services directed at the safety, comfort, personal hygiene, or protection of a patient who is a resident of a long-term health care facility.
- (b) "Nursing service" means the temporary assignment of a licensed registered nurse, licensed vocational nurse, or psychiatric technician to render nursing and basic care services to a patient who is a resident of a long-term health care facility.
- (c) "Licensed nursing staff" means a licensed registered nurse, licensed vocational nurse, or psychiatric technician.
- (d) "Long-term health care facility" means a licensed facility, as defined in Section 1418 of the Health and Safety Code.

(*Added by Stats. 2001, Ch. 326, Sec. 2. Effective January 1, 2002.*)

1812.541. Every employment agency that refers temporary certified nurse assistants to an employer that is a long-term health care facility shall provide the employer with all of the following:

- (a) Written verification that the employment agency has verified that any certified nurse assistant referred by the agency is registered on the state registry of certified nurse assistants and is in good standing. The employment agency shall provide to the employer the certified nurse assistant's professional certification number and date of expiration.
- (b) A statement that the certified nurse assistant has at least six months of experience working in a long-term health care facility.
- (c) A statement that the certified nurse assistant has had a health examination within 90 days prior to employment with the employment agency or seven days after employment with the employment agency and at least annually thereafter by a person lawfully authorized to perform that procedure. Each examination shall include a medical history and physical evaluation. The employment agency shall also provide verification that the individual has had tuberculosis screening within 90 days prior to employment and annually thereafter.
- (d) A statement that the certified nurse assistant will participate in the facility's orientation program and any in-service training programs at the request of the long-term health care employer.
- (e) A statement that a certified nurse assistant is in compliance with the in-service training requirements of paragraph (1) of subdivision (a) of Section 1337.6 of the Health and Safety Code.

(*Added by Stats. 2001, Ch. 326, Sec. 2. Effective January 1, 2002.*)

1812.542. Every employment agency that refers temporary licensed nursing staff to an employer who is a licensed long-term health care facility shall provide the employer with all of the following:

- (a) Written verification that the individual is in good standing with the Board of Registered Nursing or the Board of Vocational Nursing and Psychiatric Technicians, as applicable, and has successfully secured a criminal record clearance. The employment agency shall provide to the employer the individual's professional license and registration number and date of expiration.
- (b) A statement that the licensed nursing staff person has had a health examination within 90 days prior to employment with the employment agency or seven days after employment with the employment agency and at least annually thereafter by a person lawfully authorized to perform that procedure. Each examination shall include a medical history and physical evaluation. The

employment agency shall also provide verification that the individual has had tuberculosis screening within 90 days prior to employment and annually thereafter.

(Added by Stats. 2001, Ch. 326, Sec. 2. Effective January 1, 2002.)

- 1812.543.** (a) An employment agency that makes referrals of licensed nursing staff or certified nurse assistants for temporary employment in a long-term health care facility shall adopt policies and procedures regarding prevention of resident or patient abuse by temporary staff.
- (b) The employment agency shall provide written verification to the long-term health care facility that any certified nurse assistants or licensed nursing staff referred by the agency do not have any unresolved allegations against them involving the mistreatment, neglect, or abuse of a patient, including injuries of unknown source and misappropriation of resident property.
- (c) No temporary staff person referred by an employment agency may be solely responsible for a unit unless that person has received a full orientation to the facility and the applicable unit for which he or she is assigned.
- (d) Upon the request of the State Department of Health Services, an employment agency shall provide a list of temporary employees who have been referred to a specified facility during the period in which the facility is involved in a labor action.
- (e) An employment agency shall require that any employee referred to a long-term care facility be identified as a temporary staff person in the facility's daily staffing levels required to be posted in accordance with the standards set forth in Section 941 of Appendix F of Public Law 106-554 (42 U.S.C. Sec. 1395i-3(b)(8) and 42 U.S.C. Sec. 1395r(b)(8)).

(Added by Stats. 2001, Ch. 326, Sec. 2. Effective January 1, 2002.)

- 1812.544.** (a) Every employment agency that makes referrals of licensed nursing staff or certified nurse assistants for temporary employment in a long-term health care facility shall maintain a record of all advertisements, showing the date of publication and the publication in which the advertisement appeared, for a period of one year from the date of the advertisement.
- (b) No employment agency that makes referrals for employment to a long-term health care facility 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. The employment agency shall provide a written disclosure to each employer stating that it does not perform the services of a home health agency and clearly describing that it is an employment agency only.
- (c) Any facility or individual may refer complaints concerning employment agencies which place licensed nursing staff or certified nurse assistants in long-term health care facilities to the appropriate licensing, certification, ombudsman, adult protective services, or proper law enforcement agency for action.

(Added by Stats. 2001, Ch. 326, Sec. 2. Effective January 1, 2002.)