

Governor Newsom Signs into Law AB 1502: the Skilled Nursing Facility Ownership and Management Reform Act of 2022; Key Deadline: July 1, 2023

Insights

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On Tuesday, September 27, 2022, Governor Newsom signed into law the Skilled Nursing Facility (SNF) Ownership and Management Reform Act of 2022 (the "Act"). The law establishes significant changes to the California Department of Public Health's ("CDPH") Change of Ownership ("CHOW") and Change of Information ("CHOI") processes for freestanding skilled nursing facilities.

The version signed into law is a significant improvement over what was initially proposed, thanks in large part to the California Association of Health Facilities (Hooper, Lundy & Bookman, P.C. serves as its legal counsel), and other key stakeholders. Nonetheless, AB 1502 will cause a sea of change in how entities and individuals acquire interest in, operate, establish, or manage California freestanding skilled nursing facilities.

Notable changes include, but are not limited to:

- An applicant for a SNF license must submit an application to CDPH at least 120 days prior to acquiring, operating, establishing, managing, conducting, or maintaining a SNF. This appears likely to significantly curtail or entirely eliminate interim management agreements, which have been a common feature of the CHOW process in California for years, due in large part to CDPH's lengthy application processing timeframe.
- Under limited exigent circumstances that exclude the vast majority of CHOW applicants (e.g., where the SNF is under temporary management, at immediate risk of decertification, license revocation or suspension or closure, etc.), an applicant may request an expedited application review. If CDPH determines the applicant is reputable and responsible, the applicant can serve as an interim manager pending the processing of the CHOW.
- Changes to key definitions might lead CDPH to assert that a CHOW has occurred where previously, only a CHOI would need to be reported.
- Key definition changes may also cause consulting and administrative companies to now be considered a management company, requiring them to apply for approval from CDPH before beginning to manage a SNF.
- An applicant that owns, operates, or manages 10% or more of SNFs statewide will be automatically disqualified from receiving a new SNF license, unless CDPH grants an exception.

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- Implements enforcement actions that CDPH can take against an individual or entity for failure to apply or seek approval prior to acquiring, operating, or managing a SNF.
- Provides sanctions to deter owners and operators from acquiring, operating, establishing, managing, conducting, or maintaining a freestanding SNF before CDPH approves its application or following CDPH's denial of its application, or without first applying to and obtaining a license from CDPH for that purpose.

The major changes to the application process will be effective for new CHOW and CHOI applications submitted to CDPH **on or after July 1, 2023**. If you are contemplating SNF CHOWs or CHOs in the near term in California, or otherwise have questions about AB 1502, we encourage you to contact the attorneys listed below or your usual HLB contact.

If you have any questions, please reach out to attorneys at Hooper, Lundy, and Bookman. Please contact [Mark Reagan](#), [Scott Kiepen](#), and [Matthew Clark](#) in San Francisco, [Mark Johnson](#) in San Diego, [David J. Vernon](#) in Washington, D.C., or any other member of our Hooper, Lundy & Bookman team.

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