



Agenda Date: 7/31/2007
Agenda Placement: 10A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Britt Ferguson for Nancy Watt - County Executive Officer
County Executive Office
REPORT BY: Molly Rattigan, Management Analyst, 253-4112
SUBJECT: S.1577 Patient Safety and Abuse Prevention Act of 2007

RECOMMENDATION

Discussion and possible action related to S.1577 Patient Safety and Abuse Prevention Act of 2007. (Unanimous vote of the Board members present required.)

EXECUTIVE SUMMARY

S.1577, the Patient Safety and Abuse Prevention Act of 2007, as introduced in the United States Senate on June 8, 2007 would create a coordinated, nationwide system of State criminal background checks of employees of long-term care facilities and providers with direct patient access. This Act is supported by the American Health Care Association, the Elder Justice Coalition and the American Association of Retired Persons.

It is expected that the Board will discuss whether to send a letter of support or opposition concerning S.1577.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

S.1577, the Patient Safety and Abuse Prevention Act of 2007, as introduced in the United States Senate on June 8, 2007 would create a coordinated, nationwide system of State criminal background checks of employees of long-term care facilities and providers with direct patient access. Long-term care facilities and providers are defined as those who receive Title XIX (which, among other things, includes Medi-Cal) funding including: home health agencies, providers of hospice care, long-term care hospitals, providers of personal care services, providers of adult day care and residential care providers that arrange for or directly provide, long term care services. Under this Act, background checks will include a search of State and Federal criminal history records and a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation for the following.

According to the legislation, the purposes of this Act are:

1. to greatly enhance the chances of identifying individuals with problematic backgrounds who move across State lines;
2. to stop individuals who have a record of substantiated abuse or a serious criminal record from preying on helpless elders and individuals with disabilities; and
3. to provide assurance to long-term care employers and the residents they care for that potentially abusive workers will not be hired into positions of providing services to the extremely vulnerable residents of our Nations' long-term care facilities. .

S.1577 reports that in calendar year 2004, the staffs at State Adult Protective Services agencies received more than 500,000 reports of elder and vulnerable adult abuse, and an ombudsman report that more than 15,000 nursing home complaints involved abuse. According to the Attorney General of the State of California, there were 69,114 reports of elder abuse filed in calendar year 2006 with 188 of those reports filed in Napa County.

Various sections of the California Health and Safety Code and Welfare and Institutions Code spell out the criminal background check process for both licensed and unlicensed individuals who have direct patient access. For example, Section 1569.17 of the Health and Safety Code requires Federal Investigations Bureau (FBI) fingerprint clearance for all employees with direct patient access in residential care facilities. However, Welfare and Institutions Code section 15660 only requires Department of Justice clearance for individuals who are not licensed and provide in-home domestic services. S.1577 will streamline the background check process.

Under this legislation, states could choose to participate in this program. If they do, they are required to designate a state agency that will be responsible for coordinating the background screening process. The legislation provides that participating states will receive federal funding for this service, on a three to one matching basis; in other words, there must be a local match equivalent to 25% of the program cost. However, the federal funding level is capped at \$3 million per state. At this point, staff is not aware of any estimates of the cost of providing these services in California.

One area that must be of concern to counties with regard to programs such as this, is the potential that the State could end up delegating certain responsibilities to counties, and not provide adequate funding. At this point, as far as staff knows, there are no indications from the State as to how California might approach implementing this program if S.1577 becomes law.

S.1577 is supported by the American Health Care Association, the Elder Justice Coalition and the American Association of Retired Persons. The Legislative Subcommittee has reviewed this item and recommends that the County of Napa take a position in support of this bill.

SUPPORTING DOCUMENTS

A . S.1577

CEO Recommendation: Approve

Reviewed By: Karen Gratton