



February 9, 2016

*Supporting People,  
Health and  
Quality of Life*

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Mr. Mike Feuer  
Los Angeles City Attorney  
Office of the Los Angeles City Attorney  
James K. Hahn City Hall East  
200 North Main Street, 8<sup>th</sup> Floor  
Los Angeles, CA 90012

Re: Fair Chance Initiative/Ban the Box Policy (Council File #: 14-0746)

Dear City Attorney Feuer:

The California Association of Health Facilities (CAHF) is a non-profit, professional organization representing more than 800 skilled nursing facilities (SNFs) and 500 intermediate care facilities for people with developmental disabilities (ICF/DDs).

The organization represents nearly 350 nursing facilities within the City of Los Angeles. We would like to comment on the Fair Chance Initiative/Ban the Box, which directs the City Attorney to prepare and present an ordinance to require City contractors and private employers to remove questions relating to criminal history from their job applications. CAHF respectfully request that nursing facilities be exempted given the nature of the patient care environment as well as regulatory requirements under the Medi-Cal and Medicare programs.

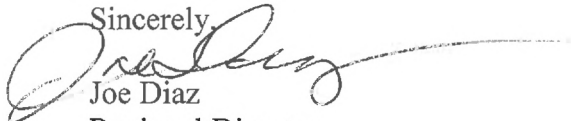
CAHF is concerned about the unintended consequence a local ordinance will have on nursing facilities if the City of Los Angeles decides to limit criminal history inquiries in the private sector. Primary concern centers on need to protect patient safety and a nursing facility's ability to remain compliant with State and Federal regulations, while not requiring nursing facilities to spend substantial resources on interviewing an applicant that would be disqualified based on their criminal history. In healthcare, unlike many other sectors, the interview process is extensive and often involves multiple interviews. We are concerned that by requiring any inquiry into an applicant's criminal history until a conditional offer is made will squander valuable resources and will likely lose qualified candidates where the applicant initially chosen had a disqualifying criminal history.

Given the nursing facility's role to provide quality patient care, the special nature of nursing facility employment is recognized in California Labor Code 432.7. That section generally prohibits California employers from considering an applicant's arrest record, except that nursing facilities may ask about an arrest for a violent crime if the applicant would have regular access to patients and may ask about drug related arrests if the applicant would have access to drugs and medication. State requirements also mandate extensive background checks for nursing facilities participating in the Medi-

Cal program. For example, the Medi-Cal provider agreements require nursing facilities to certify "that it and its owners, officers, directors, employees, and agents, have not: (1) been convicted of any felony or misdemeanor involving fraud or abuse in any government program, within the last ten years; or (2) been convicted of any felony or misdemeanor involving the abuse of any patient; (3) been convicted of any felony or misdemeanor substantially related to the qualifications, functions, or duties of a provider; or (4) entered into a settlement in lieu of conviction for fraud or abuse, within the last ten years; (5) been found liable for fraud or abuse in any civil proceeding within the last ten years."

CAHF therefore respectfully request that nursing facilities be exempted from this ordinance should a decision be made to incorporate the private sector. Should you have any questions, please feel free to contact me at: (800) 824-7074.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe Diaz", with a long horizontal flourish extending to the right.

Joe Diaz

Regional Director

California Association of Health Facilities