

AMENDED IN SENATE APRIL 22, 2004

AMENDED IN SENATE JUNE 24, 2003

AMENDED IN ASSEMBLY JUNE 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Daucher

February 21, 2003

An act to amend Sections ~~1746~~ 1368.2, 1746, and 1749 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Daucher. Hospices.

The California Hospice Licensure Act of 1990 provides for the licensure of hospices by the State Department of Health Services in order to ensure the health and safety of patients experiencing the last phases of life due to the existence of a terminal disease, and to permit qualified persons, political subdivisions of the state, and governmental agencies to comply with requirements of federal law regarding the provision of hospice care.

This bill would authorize the provision of additional preliminary services, as defined, to persons who have not elected to become a hospice patient if those services are determined to be needed, and would make these additional services and related definitions inapplicable to group health care service plans.

Existing law requires licensed hospice services to comply with the "Standards for Quality Hospice Care 1996" of the California State

Hospice Association. Existing law makes violation of hospice licensure provisions a crime.

The bill would, instead, require licensed hospice services to comply with the “Standards for Quality Hospice Care 2003” of the California Hospice and Palliative Care Association. By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law further provides that in order for a person, political subdivision of the state, or other governmental agency to be licensed as a hospice, it shall meet certain requirements including providing basic services such as skilled nursing services, social services/counseling services, medical direction, bereavement services, volunteer services, inpatient care arrangements, and home health aide services.~~

~~This bill would also authorize licensed hospices to offer related services to meet the unique needs of the community, including, but not limited to, community bereavement support for nonhospice individuals, palliative care consultations by hospice interdisciplinary team members for individuals with life-threatening conditions for pain and symptom management, counseling and advanced care planning, emergency grief response teams for community agencies, and bereavement camps.~~

~~Existing law defines these terms for purposes of the act.~~

~~Existing law defines an interdisciplinary team, for purposes of the act, to mean a hospice care team that includes, but is not limited to, the patient and patient’s family, a physician and surgeon, a registered nurse, a social worker, a volunteer, and a spiritual caregiver.~~

~~This bill would instead define an interdisciplinary team to mean a hospice care team that provides interdisciplinary care and includes, but is not limited to, the patient and patient’s family, a physician and~~



~~surgeon who is employed or under contract with the hospice, a registered nurse, a social worker, a counselor, and the patient's physician and surgeon.~~

~~Existing law provides that the interdisciplinary team shall be coordinated by a registered nurse and shall be under medical direction.~~

~~This bill would instead require that the plan of care be subject to this requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 1746 of the Health and Safety Code is~~
2 *SECTION 1. Section 1368.2 of the Health and Safety Code is*
3 *amended to read:*

4 1368.2. (a) On and after January 1, 2002, every group health
5 care service plan contract, except a specialized health care service
6 plan contract, which is issued, amended, or renewed, shall include
7 a provision for hospice care.

8 (b) The hospice care shall at a minimum be equivalent to
9 hospice care provided by the federal Medicare program pursuant
10 to Title XVIII of the Social Security Act. *The hospice care*
11 *provided under this section is not required to include preliminary*
12 *services set forth in subdivision (d) of Section 1749.*

13 (c) The following are applicable to this section and to
14 paragraph (7) of subdivision (b) of Section 1345:

15 (1) The definitions in Section 1746, *except for subdivisions (o)*
16 *and (p) of that section.*

17 (2) The “federal regulations” which means the regulations
18 adopted for hospice care under Title XVIII of the Social Security
19 Act in Title 42 of the Code of Federal Regulations, Chapter IV, Part
20 418, except Subparts A, B, G, and H, and any amendments or
21 successor provisions thereto.

22 (d) The director no later than January 1, 2001, shall adopt
23 regulations to implement this section. The regulations shall meet
24 all of the following requirements:

25 (1) Be consistent with all material elements of the federal
26 regulations that are not by their terms applicable only to eligible
27 Medicare beneficiaries. If there is a conflict between a federal
28 regulation and any state regulation, other than those adopted



1 pursuant to this section, the director shall adopt the regulation that
2 is most favorable for plan subscribers, members or enrollees to
3 receive hospice care.

4 (2) Be consistent with any other applicable federal or state
5 laws.

6 (3) Be consistent with the definitions of Section 1746, *except*
7 *for subdivisions (o) and (p) of that section.*

8 (e) This section is not applicable to the subscribers, members,
9 or enrollees of a health care service plan who elect to receive
10 hospice care under the Medicare program.

11 (f) The director, commencing on January 15, 2002, and on each
12 January 15th thereafter, shall report to the Advisory Committee on
13 Managed Health Care any changes in the federal regulations that
14 differ materially from the regulations then in effect for this section.
15 The director shall include with the report written text for proposed
16 changes to the regulations then in effect for this section needed to
17 meet the requirements of subdivision (d).

18 *SEC. 2. Section 1746 of the Health and Safety Code is*
19 *amended to read:*

20 1746. For the purposes of this chapter, the following
21 definitions apply:

22 (a) “Bereavement services” means those services available to
23 the surviving family members for a period of at least one year after
24 the death of the patient, including an assessment of the needs of the
25 bereaved family and the development of a care plan that meets
26 these needs, both prior to and following the death of the patient.

27 (b) “Hospice” means a specialized form of interdisciplinary
28 health care that is designed to provide palliative care, alleviate the
29 physical, emotional, social, and spiritual discomforts of an
30 individual who is experiencing the last phases of life due to the
31 existence of a terminal disease, and provide supportive care to the
32 ~~primary-care-giver~~ *caregiver* and the family of the hospice patient,
33 and that meets all of the following criteria:

34 (1) Considers the patient and the patient’s family, in addition to
35 the patient, as the unit of care.

36 (2) Utilizes an interdisciplinary team to assess the physical,
37 medical, psychological, social, and spiritual needs of the patient
38 and the patient’s family.

39 (3) Requires the interdisciplinary team to develop an overall
40 plan of care and to provide coordinated care that emphasizes



1 supportive services, including, but not limited to, home care, pain
2 control, and limited inpatient services. Limited inpatient services
3 are intended to ensure both continuity of care and appropriateness
4 of services for those patients who cannot be managed at home
5 because of acute complications or the temporary absence of a
6 capable primary ~~care-giver~~ *caregiver*.

7 (4) Provides for the palliative medical treatment of pain and
8 other symptoms associated with a terminal disease, but does not
9 provide for efforts to cure the disease.

10 (5) Provides for bereavement services following death to assist
11 the family in coping with social and emotional needs associated
12 with the death of the patient.

13 (6) Actively utilizes volunteers in the delivery of hospice
14 services.

15 (7) To the extent appropriate, based on the medical needs of the
16 patient, provides services in the patient’s home or primary place
17 of residence.

18 (c) “Inpatient care arrangements” means arranging for those
19 short inpatient stays that may become necessary to manage acute
20 symptoms or because of the temporary absence, or need for
21 respite, of a capable primary ~~care-giver~~ *caregiver*. The hospice
22 shall arrange for these stays, ensuring both continuity of care and
23 the appropriateness of services.

24 (d) “Medical direction” means those services provided by a
25 licensed physician and surgeon who is charged with the
26 responsibility of acting as a consultant to the interdisciplinary
27 team, a consultant to the patient’s attending physician and surgeon,
28 as requested, with regard to pain and symptom management, and
29 a liaison with physicians and surgeons in the community.

30 (e) “An interdisciplinary team” means the hospice care team
31 that includes, but is not limited to, the patient and patient’s family,
32 a physician and surgeon, a registered nurse, a social worker, a
33 volunteer, and a spiritual ~~care-giver~~ *caregiver*. The team shall be
34 coordinated by a registered nurse and shall be under medical
35 direction. The team shall meet regularly to develop and maintain
36 an appropriate plan of care.

37 (f) “Plan of care” means a written plan developed by the
38 attending physician and surgeon, the medical director or physician
39 and surgeon designee, and the interdisciplinary team that
40 addresses the needs of a patient and family admitted to the hospice



1 program. The hospice shall retain overall responsibility for the
2 development and maintenance of the plan of care and quality of
3 services delivered.

4 (g) “Skilled nursing services” means nursing services
5 provided by or under the supervision of a registered nurse under
6 a plan of care developed by the interdisciplinary team and the
7 patient’s physician and surgeon to a patient and his or her family
8 that pertain to the palliative, supportive services required by
9 patients with a terminal illness. Skilled nursing services include,
10 but are not limited to, patient assessment, evaluation and case
11 management of the medical nursing needs of the patient, the
12 performance of prescribed medical treatment for pain and
13 symptom control, the provision of emotional support to both the
14 patient and his or her family, and the instruction of ~~care-givers~~
15 *caregivers* in providing personal care to the patient. Skilled
16 nursing services shall provide for the continuity of services for the
17 patient and his or her family. Skilled nursing services shall be
18 available on a 24-hour on-call basis.

19 (h) “Social service/counseling services” means those
20 counseling and spiritual care services that assist the patient and his
21 or her family to minimize stresses and problems that arise from
22 social, economic, psychological, or spiritual needs by utilizing
23 appropriate community resources, and maximize positive aspects
24 and opportunities for growth.

25 (i) “Terminal disease” or “terminal illness” means a medical
26 condition resulting in a prognosis of life of one year or less, if the
27 disease follows its natural course.

28 (j) “Volunteer services” means those services provided by
29 trained hospice volunteers who have agreed to provide service
30 under the direction of a hospice staff member who has been
31 designated by the hospice to provide direction to hospice
32 volunteers. Hospice volunteers may be used to provide support
33 and companionship to the patient and his or her family during the
34 remaining days of the patient’s life and to the surviving family
35 following the patient’s death.

36 (k) “Multiple location” means a location or site from which a
37 hospice makes available basic hospice services within the service
38 area of the parent agency. A multiple location shares
39 administration, supervision, policies and procedures, and services



1 with the parent agency in a manner that renders it unnecessary for
2 the site to independently meet the licensing requirements.

3 (l) “Home health aide” has the same meaning as set forth in
4 subdivision (c) of Section 1727.

5 (m) “Home health aide services” means those services
6 described in subdivision (d) of Section 1727 that provide for the
7 personal care of the terminally ill patient and the performance of
8 related tasks in the patient’s home in accordance with the plan of
9 care in order to increase the level of comfort and to maintain
10 personal hygiene and a safe, healthy environment for the patient.

11 (n) “Parent agency” means the part of the hospice that is
12 licensed pursuant to this chapter and that develops and maintains
13 administrative controls of multiple locations. All services
14 provided by the multiple location and parent agency are the
15 responsibility of the parent agency.

16 (o) “Palliative” refers to medical treatment, interdisciplinary
17 care, or consultation provided to the patient or family members, or
18 both, that have as its primary purposes preventing or relieving
19 suffering and enhancing the quality of life, as described in
20 subdivision (b) of Section 1339.31, of a patient who has an
21 end-stage medical condition.

22 (p) “Preliminary services” means those services authorized
23 pursuant to subdivision (d) of Section 1749.

24 SEC. 3. Section 1749 of the Health and Safety Code is
25 amended to read:

26 1749. (a) To qualify for a license under this chapter, an
27 applicant shall satisfy all of the following:

28 (1) Be of good moral character. If the applicant is a franchise,
29 franchisee, firm, association, organization, partnership, business
30 trust, corporation, company, political subdivision of the state, or
31 governmental agency, the person in charge of the hospice for
32 which the application for a license is made shall be of good moral
33 character.

34 (2) Demonstrate the ability of the applicant to comply with this
35 chapter and any rules and regulations promulgated under this
36 chapter by the state department.

37 (3) File a completed application with the state department that
38 was prescribed and furnished pursuant to Section 1748.

39 (b) In order for a person, political subdivision of the state, or
40 other governmental agency to be licensed as a hospice it shall



1 satisfy the definition of a hospice contained in Section 1746, and
 2 also provide, or make provision for, the following basic services:
 3 (1) Skilled nursing services.
 4 (2) Social services/counseling services.
 5 (3) Medical direction.
 6 (4) Bereavement services.
 7 (5) Volunteer services.
 8 (6) Inpatient care arrangements.
 9 (7) Home health aide services.
 10 (c) The services required to be provided pursuant to
 11 subdivision (b) shall be provided in compliance with the
 12 “Standards for Quality Hospice Care, ~~1996~~ 2003,” as available
 13 from the California—State Hospice and Palliative Care
 14 Association, until the state department adopts regulations
 15 establishing alternative standards pursuant to subdivision ~~(d)~~ (e).
 16 (d) *(1) Notwithstanding any provision of law to the contrary,*
 17 *to meet the unique needs of the community, licensed hospices may*
 18 *provide, in addition to hospice services authorized in this chapter,*
 19 *any of the following preliminary services for any person in need of*
 20 *those services, as determined by the physician, if any, in charge of*
 21 *the care of a patient, or in the case of a disaster or other emergency,*
 22 *as determined by the person in charge of the provision of*
 23 *emergency medical services at the scene of the disaster or other*
 24 *emergency, or at the request of the patient or family:*
 25 (A) *Preliminary palliative care consultations.*
 26 (B) *Preliminary counseling and care planning.*
 27 (C) *Emergency grief response teams services, including*
 28 *bereavement support.*
 29 (2) *Preliminary services authorized pursuant to this*
 30 *subdivision may be provided to a person who does not have a*
 31 *terminal prognosis or who has not elected to receive hospice*
 32 *services.*
 33 (e) The state department may adopt regulations establishing
 34 standards for any or all of the services required to be provided
 35 under subdivision (b). The regulations of the state department
 36 adopted pursuant to this subdivision shall supersede the standards
 37 referenced in subdivision (c) to the extent the regulations duplicate
 38 or replace those standards.
 39 *SEC. 4. No reimbursement is required by this act pursuant to*
 40 *Section 6 of Article XIII B of the California Constitution because*



1 *the only costs that may be incurred by a local agency or school*
2 *district will be incurred because this act creates a new crime or*
3 *infraction, eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section 17556 of*
5 *the Government Code, or changes the definition of a crime within*
6 *the meaning of Section 6 of Article XIII B of the California*
7 *Constitution.*

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate June 24, 2004 (JR 11)**

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