

Assembly Bill No. 2742

Passed the Assembly August 24, 2004

Chief Clerk of the Assembly

Passed the Senate August 19, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 2653 of the Penal Code, relating to prisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2742, Mountjoy. Prisons: medical treatment.

Existing law provides that the order of a physician for specified medical treatment may not be modified or canceled by any employee of the department without the approval of the chief medical officer of the institution or the physician in attendance except as specified. A person violating this provision is subject to appropriate disciplinary action by the Department of Corrections or the Youth Authority.

This bill would provide that, if an inmate or ward is given a diagnosis and recommendation for treatment by a physician outside the department facility who is a specialist or consulting physician, and that treatment is available at the department facility or contract medical facility, and that treatment does not exceed the range of benefits provided by the department, if a decision is made to deny or modify the recommended treatment, that decision shall be communicated in writing to the physician recommending the treatment and to the patient. This bill would also bar department facility staff other than a physician from interfering with the delivery of a treatment prescribed by a physician unless imminent risk of bodily harm to the physician, staff, or inmate requires alternate or modified procedures. A person violating any of these provisions would be subject to appropriate disciplinary action by the department, and would be guilty of an infraction punishable by a fine of up to \$1,000. A 2nd or subsequent conviction for this offense would be punishable by a fine of up to \$2,000. This bill would also require any action taken against a physician under these provisions to be reported by the employing department to the Medical Board of California within 30 days of that action.

By defining a new 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 people of the State of California do enact as follows:

SECTION 1. Section 2653 of the Penal Code is amended to read:

2653. (a) If a physician employed by the Department of Corrections or the Department of the Youth Authority certifies in writing that a particular medical treatment is required to prevent a violation of Section 147, 673, 2650, or 2652, or is required to prevent serious and imminent harm to the health of a prisoner, the order for that particular medical treatment may not be modified or canceled by any employee of the department without the approval of the chief medical officer of the institution or the physician in attendance unless an inmate or ward has a known history of violent or otherwise disruptive behavior that requires additional measures to protect the safety and security of the institution specified in writing by the warden or superintendent, or unless immediate security needs require alternate or modified procedures. Following any necessary modified or alternate security procedures, treatment of the inmate or ward shall be effected as expeditiously as possible.

Nothing in this section shall be construed to prevent a registered nurse from questioning, or seeking clarification of, an order from a physician that in the professional judgment of that nurse endangers patient health or safety, or otherwise is contrary to the professional ethics of the registered nurse.

(b) In any facility of the Department of Corrections or the Department of the Youth Authority, if an inmate or ward is given a diagnosis and recommendation for treatment by a physician outside the facility who is a specialist or a consulting physician, and that treatment is available at the department facility or contract medical facility, and that treatment does not exceed the range of benefits provided by the department, if a decision is made to deny or modify the recommended treatment, that decision shall be communicated in writing to the physician recommending the treatment and to the patient.



(c) If an inmate or ward is given a diagnosis and recommendation for treatment by a physician, no department facility staff other than a physician may interfere with the delivery of that treatment unless imminent risk of bodily harm to the physician, staff, or inmate requires alternate or modified procedures.

(d) Any person who violates this section shall be subject to appropriate disciplinary action by the department. In addition, a violation of subdivision (b) or (c) is an infraction punishable by a fine of up to one thousand dollars (\$1,000). A second or subsequent violation of subdivision (b) or (c) is punishable by a fine of up to two thousand dollars (\$2,000).

(e) Any action taken against a physician pursuant to this section shall be reported by the employing department to the Medical Board of California within 30 days of that action.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

