

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 330

Introduced by Assembly Member Gordon
(Coauthor: Assembly Member Ridley-Thomas)

February 10, 2005

An act to amend Section 1265 of, and to add Sections 1265.3 and 1265.4 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 330, as amended, Gordon. General acute care, acute psychiatric, and special hospitals: management requirements.

Existing law provides for the licensure and regulation of health facilities administered by the State Department of Health Services. A violation of these provisions is a crime.

Existing law requires that any person, political subdivision of the state, or governmental agency desiring approval to manage a health facility currently licensed as a skilled nursing facility or intermediate care facility that has not filed an application for a license to operate that facility to file with the department a verified application containing specific information, including information regarding the applicant's character and ability to comply with applicable licensing and regulatory provisions.

This bill would expand this application requirement to apply to those seeking approval to *operate or* manage a health facility currently licensed as a general acute care hospital, acute psychiatric hospital, or special hospital that has not filed an application for a license to operate that facility. With respect to these health facilities, the bill would require the department to consider specific evidence in making determinations regarding character and ability to comply with

applicable licensing and regulatory provisions and to make one additional determination with respect to a demonstration of sufficiency of financial resources.

This bill would require these facilities to notify the department at any time at which the facility is unable to demonstrate sufficient financial capacity to operate the facility ~~for a period of at least 90 days~~ and to provide to the department information about the manner in which the facility intends to correct its lack of financial capacity. The bill would also require the facility to notify the county health department and others of this lack of financial capacity; *Because a violation of which these notification requirements would be a crime, this imposing 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.

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

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

- 1 SECTION 1. Section 1265 of the Health and Safety Code is
- 2 amended to read:
- 3 1265. Any person, political subdivision of the state, or
- 4 governmental agency desiring a license for a health facility,
- 5 approval for a special service under this chapter, or approval to
- 6 manage a health facility currently licensed as a health facility, as
- 7 defined in subdivision (a), (b), (c), (d), or (f) of Section 1250,
- 8 that has not filed an application for a license to operate that
- 9 facility shall file with the department a verified application on
- 10 forms prescribed and furnished by the department, containing all
- 11 of the following:
- 12 (a) The name of the applicant and, if an individual, whether
- 13 the applicant has attained the age of 18 years.
- 14 (b) The type of facility or health facility.
- 15 (c) The location thereof.
- 16 (d) The name of the person in charge thereof.

1 (e) Evidence satisfactory to the department that the applicant
2 is of reputable and responsible character. If the applicant is a
3 firm, association, organization, partnership, business trust,
4 corporation, or company, like evidence shall be submitted as to
5 the members or shareholders thereof, and the person in charge of
6 the health facility for which application for license is made. If the
7 applicant is a political subdivision of the state or other
8 governmental agency, like evidence shall be submitted as to the
9 person in charge of the health facility for which application for
10 license is made.

11 (f) Evidence satisfactory to the department of the ability of
12 the applicant to comply with this chapter and of rules and
13 regulations promulgated under this chapter by the ~~state~~
14 department.

15 (g) Evidence satisfactory to the department that the applicant
16 to operate a skilled nursing facility or intermediate care facility
17 possesses financial resources sufficient to operate the facility for
18 a period of at least 45 days. A management company shall not be
19 required to submit this information.

20 (h) Each applicant for a license to operate a skilled nursing
21 facility or intermediate care facility shall disclose to the
22 department evidence of the right to possession of the facility at
23 the time the application will be granted, which may be satisfied
24 by the submission of a copy of applicable portions of a lease
25 agreement or deed of trust. The names and addresses of any
26 persons or organizations listed as owner of record in the real
27 estate, including the buildings and the grounds appurtenant to the
28 buildings, shall be disclosed to the department.

29 (i) Any other information as may be required by the
30 department for the proper administration and enforcement of this
31 chapter.

32 (j) Upon submission of an application to the department by an
33 intermediate care facility/developmentally disabled habilitative
34 or an intermediate care facility/developmentally
35 ~~disabled—nursing~~ *disabled-nursing*, the application shall include
36 a statement of need signed by the chairperson of the area board
37 pursuant to Chapter 4 (commencing with Section 4570) of
38 Division 4.5 of the Welfare and Institutions Code. In the event
39 the area board has not provided the statement of need within 30

1 days of receipt of the request from the applicant, the department
2 may process the application for license without the statement.

3 (k) The information required pursuant to this section, other
4 than individuals' social security numbers, shall be made available
5 to the public upon request, and shall be included in the
6 department's public file regarding the facility.

7 SEC. 2. Section 1265.3 is added to the Health and Safety
8 Code, to read:

9 1265.3. (a) For any individual or entity that seeks approval to
10 *operate or* manage a health facility licensed pursuant to
11 subdivision (a), (b), or (f) of Section 1250 and is subject to
12 Section 1265, the department shall consider the following:

13 (1) To determine whether the applicant is of reputable and
14 responsible character, the department shall consider any available
15 information that the applicant has demonstrated a pattern and
16 practice of violations of state or federal laws and regulations. The
17 department shall give particular consideration to those violations
18 that affect the applicant's ability to deliver safe patient care,
19 including the financial capacity to provide care in accordance
20 with existing state and federal requirements.

21 (2) To determine whether the applicant has the ability to
22 comply with this chapter and the rules and regulations adopted
23 under this chapter, the department shall consider evidence that
24 shall include all of the following:

25 (A) If any, prior history of operating in this state any other
26 facility licensed pursuant to Section 1250, and the applicant's
27 history of substantial compliance with the requirements imposed
28 under that license, applicable federal laws and regulations, and
29 requirements governing the operators of those facilities.

30 (B) If any, prior history of operating in any other state any
31 facility authorized to receive Medicare Program reimbursement
32 or Medicaid Program reimbursement, and the applicant's history
33 of substantial compliance with that state's requirements, and
34 applicable federal laws, regulations, and requirements.

35 (C) If any, prior history of providing health services as a
36 licensed health professional or an individual or entity contracting
37 with a health care service plan or insurer, and the applicant's
38 history of substantial compliance with state requirements, and
39 applicable federal law, regulations, and requirements.

1 (b) The department shall also determine whether an individual
2 or entity described in subdivision (a) is able to demonstrate that
3 the facility possesses financial resources sufficient to operate the
4 facility ~~for a period of at least 90 days.~~

5 SEC. 3. Section 1265.4 is added to the Health and Safety
6 Code, to read:

7 1265.4. (a) At any time at which a facility licensed pursuant
8 to subdivision (a), (b), or (f) of Section 1250 is unable to
9 demonstrate sufficient financial capacity to operate the facility
10 ~~for a period of at least 90 days~~, it shall notify all of the following
11 parties:

12 (1) The department.

13 (2) The county health department.

14 (3) Other interested parties, including, but not limited to,
15 physicians with privileges at the hospital and employees of the
16 hospital.

17 (b) The facility shall also provide to the department
18 information about the manner in which it intends to correct its
19 lack of financial capacity.

20 SEC. 4. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.