

**Introduced by Senator Speier**February 22, 2005

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An act to add Section 1279.1 to, and to add and repeal Section 1279.2 of, the Health and Safety Code, relating to health facilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 739, as introduced, Speier. Hospitals: infection control.

Existing law provides for the licensure and regulation by the State Department of Health Services of health facilities, including general acute care hospitals. A violation of these provisions by a health facility is a crime. Existing law requires health facilities to file reports containing health facility data with the Office of Statewide Health Planning and Development.

This bill would require general acute care hospitals to have a written infection control program for the surveillance, prevention, and control of infections, under the oversight of a multidisciplinary committee. The bill would require the department to evaluate the program and would authorize the department to require the hospital to submit a plan of correction.

The bill would require a general acute care hospital to collect and maintain data regarding the number of hospital-acquired infections and to use that data to improve the quality of care. The bill would require the department to collect data regarding surgical site infections and would authorize the department to increase the annual licensure fee to fund the direct costs associated with the department's annual risk-adjustment of that data. Commencing January 1, 2008, the bill would require the department to publish an annual report on hospital-acquired infections that includes a list of best practices that the department has identified. The bill would require each hospital maintain a record of its activities and programs to reduce

hospital-acquired infections. The bill would authorize the department to issue a deficiency to a hospital that has an infection rate that exceeds the 90th percentile of all hospital reported data. If a hospital fails to take corrective action within a reasonable time and any deficient infection rate does not improve, the bill would authorize the department to assess administrative fines. The provisions in this paragraph would become operative on July 1, 2006, inoperative on January 1, 2013, and would be repealed on January 1, 2013.

Because the bill would add to the requirements of a health facility, and a violation of those requirements would be a crime, the 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 1279.1 is added to the Health and Safety  
2 Code, to read:  
3 1279.1. (a) (1) A general acute care hospital shall adopt and  
4 implement a written infection control program for the  
5 surveillance, prevention, and control of infections.  
6 (2) The oversight of the infection surveillance, prevention, and  
7 control program shall be vested in a multidisciplinary committee.  
8 The committee shall include representatives from the medical  
9 staff, nursing department, administration, and infection control.  
10 (b) In conducting inspections pursuant to Section 1279, the  
11 department shall evaluate the hospital's infection control  
12 program. If, during the inspection, the department determines  
13 that the health or safety of patients is at risk due to a deficient  
14 infection control program, the department may require that the  
15 hospital submit a plan of correction. A hospital may voluntarily  
16 provide the department with information regarding its efforts to  
17 minimize hospital-acquired infections, and the department shall

1 consider that information in determining whether to take further  
2 action.

3 SEC. 2. Section 1279.2 is added to the Health and Safety  
4 Code, to read:

5 1279.2. (a) As used in this section, “hospital–acquired  
6 infection” means an infection acquired by a patient while an  
7 inpatient at a general acute care hospital and that was not present  
8 or incubating at the time of admission.

9 (b) A general acute care hospital shall collect and maintain  
10 data regarding the number of hospital–acquired infections and  
11 the number of patients with a hospital–acquired infection by unit  
12 and by type of infection. The hospital shall analyze and use that  
13 data to improve the quality of care. The data shall be subject to  
14 inspection by the department.

15 (c) During its inspections of hospitals, the department shall  
16 collect data regarding surgical site infections following coronary  
17 artery bypass graft surgery, total hip replacement, laminectomies,  
18 and central–line associated blood stream infections in intensive  
19 care units. The department shall risk–adjust this data. The annual  
20 licensure fee imposed on general acute care hospitals by Section  
21 1266 may be increased to fund the direct costs associated with  
22 the department’s annual risk–adjustment of this data.

23 (d) Commencing January 1, 2008, the department shall publish  
24 an annual report on hospital–acquired infections by category  
25 pursuant to the data collected as required in this section. The  
26 report shall include a list of best practices that the department has  
27 identified. No hospital shall be identified in the department  
28 report.

29 (e) Each hospital shall compare its procedures against the best  
30 practices published by the department within 180 days of the  
31 publication and release of the report by the department. The  
32 hospital shall maintain a record of its review of the best practices  
33 and steps adopted to reduce hospital–acquired infections within  
34 the facility.

35 (f) Each hospital shall maintain for inspection by the  
36 department a record of its activities and programs to reduce  
37 hospital–acquired infections and annual summary data on the  
38 infections and infection rates specified in subdivision (c).

39 (g) The department may issue a deficiency to a hospital that  
40 has an infection rate in a procedure category described in

1 subdivision (c) that exceeds the 90th percentile of all hospital  
2 reported data. If a hospital fails to take corrective action within a  
3 reasonable time and any deficient infection rate does not  
4 improve, the department may assess an administrative fine of up  
5 to one thousand dollars (\$1,000) per annum for the first failure to  
6 improve, a fine of up to five thousand dollars (\$5,000) per annum  
7 for the second failure to improve, and a fine of up to ten thousand  
8 dollars (\$10,000) per annum for a subsequent failure to improve.  
9 If the hospital takes corrective action within a reasonable time,  
10 which is acceptable to the department, no fine shall be assessed.  
11 The department shall adopt procedures for assessment of the  
12 administrative fine.

13 (h) The department shall advise hospitals about best practices  
14 and provide other information that can help hospitals decrease  
15 the number of hospital-acquired infections.

16 (i) (1) Notwithstanding any other provision of law, all data,  
17 information, reports, records, analyses, proceedings, and plans  
18 acquired or generated by the department or by a hospital or  
19 medical staff pursuant to this section, or by an individual or other  
20 entity acting at the direction of the department, hospital, or  
21 medical staff, shall be considered confidential information. This  
22 confidential information shall not be disclosed to anyone, except  
23 to the extent necessary to carry out one or more duties specified  
24 in this section. This confidential information shall not be subject  
25 to discovery, subpoena, or other type of legal compulsion for its  
26 release to any person or entity, and shall not be admissible as  
27 evidence in any civil, criminal, or judicial proceeding,  
28 arbitration, or before any administrative body, agency, or person.  
29 No person shall disclose or testify about what transpired at any  
30 meeting held by the department, hospital, or medical staff or at  
31 the direction of the department, hospital, or medical staff to carry  
32 out one or more duties pursuant to this section.

33 (2) A facility may provide to the department and to licensing  
34 or accrediting organizations the confidential information required  
35 by this section or by the licensing or accrediting organizations  
36 without compromising the protections provided to the facility, its  
37 employees, and other health care practitioners by this section or  
38 by Sections 1156 to 1157.7, inclusive, of the Evidence Code.

39 (3) Notwithstanding any other provision of law, the governing  
40 body of a facility that is owned or operated by a governmental

1 entity may close a meeting to discuss hospital-acquired infection  
2 reporting, analysis, deliberations, decisions, recommendations,  
3 corrective action, or documentation. The meeting may be closed  
4 only by a majority vote of the governing body in a public  
5 meeting.

6 (4) This section does not affect the admissibility in evidence of  
7 a patient's medical record.

8 (j) This section shall become operative on July 1, 2006.

9 (k) This section shall remain in effect only until January 1,  
10 2013, and as of that date is repealed, unless a later enacted  
11 statute, that is enacted before January 1, 2013, deletes or extends  
12 that date.

13 SEC. 3. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution  
15 because the only costs that may be incurred by a local agency or  
16 school district will be incurred because this act creates a new  
17 crime or infraction, eliminates a crime or infraction, or changes  
18 the penalty for a crime or infraction, within the meaning of  
19 Section 17556 of the Government Code, or changes the  
20 definition of a crime within the meaning of Section 6 of Article  
21 XIII B of the California Constitution.