

Introduced by Senator AlquistFebruary 16, 2006

An act to amend Section 1266 of, to add Sections 1279.1, 1279.2, and 1279.3 to, and to repeal and add Section 1279 of, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, as introduced, Alquist. Health facilities: reporting and inspection requirements.

Existing law provides for the inspection, licensure, and regulation of health care facilities by the State Department of Health Services, including, among other facilities, general acute care hospitals, acute psychiatric hospitals, special hospitals, and long-term health care facilities, some of which are collectively referred to as nursing homes. Existing law requires that all licensed general acute care hospitals maintain a medical records system, as specified, that organizes all medical records for each patient under a unique identifier, and develop and implement policies and procedures to ensure that relevant portions of patients' medical records can be made available within a reasonable period of time to respond to the request of a treating physician, other authorized medical professionals, authorized representatives of the department, or any other person authorized by law to make such a request, taking into consideration the physical location of the records and hours of operation of the facility where those records are located, as well as the interests of the patients.

Existing law establishes licensing and annual renewal fees for health facilities, and requires the department, by March 1 of each year, to make certain information regarding the methodology and calculations used to determine these fee amounts available to interested parties, upon request.

This bill instead would require the department to make this information available by February 17, and would further require the department to make the information available to the budget and relevant policy committees of the Legislature without the need for a request. The bill would revise requirements relating to the department's preparation of a staffing and systems analysis to ensure efficient and effective utilization of the fees collected and proper allocation of departmental resources.

Existing law requires the department to conduct periodic inspections of health facilities for which a license or special permit has been issued, to insure the quality of care. Existing law exempts certain health facilities that are certified to participate in the federal Medicare and Medicaid Programs from these inspections. Existing law also authorizes the department to contract for outside personnel to perform inspections of health facilities as the need arises.

This bill would revise the above inspection provisions, including requiring that a health facility licensed as a general acute care hospital, acute psychiatric hospital, or special hospital, at least once every 3 years, or as often as necessary to ensure the quality of care being provided. The bill would require the department to ensure that inspections conducted pursuant to the bill are not announced in advance of the inspection date. The bill would authorize the department to conduct a joint inspection with an outside entity under contract with the department, but would require the department to conduct a separate unannounced inspection if the outside entity provides notice in advance of the periodic inspection.

This bill would require the department to inspect for compliance with state law and regulation during state and federal periodic inspections, notwithstanding any other provision of law. This bill would require the department to take various actions related to the reporting to, and the investigation by, the department of any medical error that results in a serious injury to, or the suspicious death of, a patient that occurs at a licensed acute care hospital or acute psychiatric hospital. The bill would require a general acute care hospital, acute psychiatric hospital, or special hospital to report to the department any medical error, as defined, that results in the serious injury or suspicious death of a patient, within 48 hours of its occurrence.

This bill would require the department to conduct an onsite inspection or investigation within 48 hours or 2 business days of a complaint involving the threat of imminent danger of death or serious

bodily harm at a general acute care hospital, an acute psychiatric hospital, or a special hospital. The bill would require the outcome of investigations or inspections conducted in accordance with these provisions to be posted on the department’s Internet Web site and available in written form.

The bill would require the costs of administering and implementing certain of its provisions to be paid from funds derived from licensing fees paid by general acute care, acute psychiatric, and special hospitals.

Violation of provisions relating to the operation of health facilities is a crime. Therefore, by imposing new and revised requirements on health facilities, 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 1266 of the Health and Safety Code is
2 amended to read:

3 1266. (a) Each new and renewal application for a license for
4 the health facilities listed below shall be accompanied by an
5 annual fee as set forth below.

6 (1) The annual fee for a general acute care hospital, acute
7 psychiatric hospital, special hospital, and chemical dependency
8 recovery hospital, based on the number of licensed beds, is as
9 follows:

10		
11	1–49 beds	\$460 plus \$8 per bed
12	50–99 beds	\$850 plus \$8 per bed
13	100 or more beds	\$1,175 plus \$8 per bed
14		

1 (2) The annual fee for a skilled nursing facility, intermediate
2 care facility, and intermediate care facility/developmentally
3 disabled, based on the number of licensed beds, is as follows:

4		
5	1-59 beds	\$2,068 plus \$26 per bed
6	60-99 beds	\$2,543 plus \$26 per bed
7	100 or more beds	\$3,183 plus \$26 per bed
8		

9 (3) The fees provided in this subdivision shall be adjusted,
10 commencing July 1, 1983, as proposed in the state department's
11 1983-84 fiscal year Health Facility License Fee Report to the
12 Legislature. Commencing July 1, 1984, fees provided in this
13 subdivision shall be adjusted annually, as directed by the
14 Legislature in the annual Budget Act.

15 (b) (1) By ~~March~~ February 17 of each year, the State
16 Department of Health Services shall make available to *the budget*
17 *and relevant policy committees of the Legislature, and upon*
18 *request, to other interested parties, upon request,* information
19 regarding the methodology and calculations used to determine
20 the fee amounts specified in this section, the staffing and systems
21 analysis required under subdivision (e), program costs associated
22 with the licensing provisions of this division, and the actual
23 numerical fee charges to be implemented on July 1 of that year.
24 This information shall specifically identify federal funds
25 received, but not previously budgeted for, the licensing
26 provisions of this division that are used to offset the amount of
27 General Fund money to be recovered through license fees. The
28 information shall also identify the purpose of federal funds
29 received for any additional activities under the licensing
30 provisions of this division that are not used to offset the amount
31 of General Fund money.

32 (2) The methodology and calculations used to determine the
33 fee amounts shall result in fee levels in an amount sufficient to
34 provide revenues equal to the sum of the following:

35 (A) The General Fund expenditures for the fiscal year
36 beginning on July 1 of that year, as specified in the Governor's
37 proposed budget, less license fees estimated to be collected in
38 that fiscal year by the licensing provisions of this division,
39 excluding licensing fees collected pursuant to this section.

1 (B) The amount of federal funds budgeted for the fiscal year
2 ending June 30 of that year for the licensing provisions of the
3 division, less federal funds received or credited, or anticipated to
4 be received or credited, during that fiscal year for that purpose.

5 The methodology for calculating the fee levels shall include an
6 adjustment that takes into consideration the actual amount of
7 license fee revenue collected pursuant to this section for that
8 prior fiscal year.

9 (3) If the Budget Act provides for expenditures that differ by 5
10 percent from the Governor’s proposed budget, the Department of
11 Finance shall adjust the fees to reflect that difference and shall
12 instruct the State Department of Health Services to publish those
13 fees in accordance with subdivision (d).

14 (c) The annual fees determined pursuant to this section shall
15 be waived for any health facility conducted, maintained, or
16 operated by this state or any state department, authority, bureau,
17 commission, or officer, or by the Regents of the University of
18 California, or by a local hospital district, city, county, or city and
19 county.

20 (d) The department shall, within 30 calendar days of the
21 enactment of the Budget Act, publish a list of actual numerical
22 fee charges as adjusted pursuant to this section. This adjustment
23 of fees, any adjustment by the Department of Finance, and the
24 publication of the fee list shall not be subject to the rulemaking
25 requirements of Chapter 3.5 (commencing with Section 11340)
26 of Part 1 of Division 3 of Title 2 of the Government Code. If the
27 published list of fees is higher than that made available to
28 interested parties pursuant to subdivision (b), the affected health
29 facilities may choose to pay the fee in the amount presented at
30 the public hearing and to defer payment of the additional
31 increment until 60 days after publication of the list of fees
32 pursuant to this subdivision.

33 (e) Prior to the establishment of the annual fee, the department
34 shall prepare a staffing and systems analysis to ensure efficient
35 and effective utilization of fees collected, proper allocation of
36 departmental resources to licensing and certification activities,
37 survey schedules, complaint investigations, enforcement and
38 appeal activities, data collection and dissemination, surveyor
39 training, and policy development. *The analysis shall demonstrate*
40 *that the department has sufficient surveyors, other appropriate*

1 *professionals, and administrative support personnel to fulfill the*
 2 *requirements of state and federal law for timely inspections,*
 3 *complaint investigations within the timeframes specified by law*
 4 *and regulation, and timely investigations of reports of medical*
 5 *errors. The analysis shall include information on the proportion*
 6 *of inspections and investigations that were completed in a timely*
 7 *manner during the preceding year, as well as the waiting times*
 8 *for change of ownership and new licensees.*

9 The analysis under this subdivision shall be included in the
 10 information made available pursuant to subdivision (b), and shall
 11 include all of the following:

12 (1) The number of surveyors and administrative support
 13 personnel devoted to the licensing and certification of health care
 14 facilities.

15 (2) The percentage of time devoted to licensing and
 16 certification activities for the various types of health facilities.

17 (3) The number of facilities receiving full surveys and the
 18 frequency and number of followup visits.

19 (4) The number and timeliness of complaint investigations.

20 (5) Data on deficiencies and citations issued, and numbers of
 21 citation review conferences and arbitration hearings.

22 (6) Training courses provided for surveyors.

23 (7) Other applicable activities of the licensing and certification
 24 division.

25 The analysis shall also include recommendations for
 26 administrative changes to streamline and prioritize the survey
 27 process, complaint investigations, management information
 28 systems, word processing capabilities and effectiveness,
 29 consumer information system, and surveyor training.

30 The annual staffing and systems analysis shall be presented to
 31 the Health Care Advisory Committee and the Legislature prior to
 32 the establishment and adoption of the annual fee.

33 (f) The annual fee for a congregate living health facility shall
 34 initially, and until adjusted by the Legislature in a Budget Act, be
 35 based on the number of licensed beds as follows:

36

37	1–3 beds	\$ 800
38	4–6 beds	\$1,000
39	7–10 beds	\$1,200
40	11–15 beds	\$1,500

1 16 or more beds \$1,700

2

3 Commencing July 1, 1991, fees provided in this subdivision shall
4 be adjusted annually, as directed by the Legislature in the annual
5 budget.

6 (g) The annual fee for a pediatric day health and respite care
7 facility, as defined in Section 1760.2, shall initially, and until
8 adjusted by the Legislature in a Budget Act, be based on the
9 number of licensed beds as follows:

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11	1-3 beds or clients	\$ 800
12	4-6 beds or clients	\$1,000
13	7-10 beds or clients	\$1,200
14	11-15 beds or clients	\$1,500
15	16 or more beds or clients	\$1,700 plus \$50 for each additional bed
16		or client over 16 beds or clients

17

18 Commencing July 1, 1993, fees provided in this subdivision shall
19 be adjusted annually, as directed by the Legislature in the annual
20 Budget Act.

21 (h) The department shall, in consultation with affected
22 provider representatives, develop a specific proposal by July 1,
23 1995, to do all of the following:

24 (1) Revise the health facility licensure fee methodologies in a
25 manner that addresses the fee methodology and subsidy issues
26 described in the State Auditor Report Number 93020, Issues 2
27 and 3.

28 (2) Ensure the validity and reliability of the data systems used
29 to calculate the license fee.

30 (3) Address the subsidy of licensing and certification activities
31 regarding health facilities for which the annual license fee is
32 waived.

33 (4) Develop a licensing and certification special fund into
34 which all fees collected by the state department, for health
35 facility licensing, certification, regulation, and inspection duties,
36 functions, and responsibilities, shall be deposited.

37 SEC. 2. Section 1279 of the Health and Safety Code is
38 repealed.

39 ~~1279. Every health facility for which a license or special~~
40 ~~permit has been issued, except a health facility, as defined in~~

1 subdivisions (b) to (k), inclusive, of Section 1250, that is certified
2 to participate either in the Medicare program under Title XVIII
3 (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act,
4 or in the medicaid program under Title XIX (42 U.S.C. Sec. 1396
5 et seq.) of the federal Social Security Act, or both, shall be
6 periodically inspected by a representative or representatives
7 appointed by the state department, depending upon the type and
8 complexity of the health facility or special service to be
9 inspected. If the health facility is deemed to meet standards for
10 certification to participate in either the Medicare program or the
11 medicaid program, or both, because the health facility meets the
12 standards of an agency other than the Health Care Financing
13 Administration, then, in order for the health facility to qualify for
14 the exemption from periodic inspections provided in this section,
15 the inspection to determine that the health facility meets the
16 standards of an agency other than the Health Care Financing
17 Administration shall include participation by the California
18 Medical Association to the same extent as it participated in
19 inspections as provided in Section 1282 prior to the date this
20 section, as amended by S.B. 1779 of the 1991-92 Regular
21 Session, becomes operative. Inspections shall be conducted no
22 less than once every two years and as often as necessary to insure
23 the quality of care being provided. However, for a health facility
24 specified in subdivision (a) or (b) of Section 1250, inspections
25 shall be conducted no less than once every three years, and as
26 often as necessary to insure the quality of care being provided.
27 During the inspection, the representative or representatives shall
28 offer such advice and assistance to the health facility as they
29 deem appropriate.

30 For acute care hospitals of 100 beds or more, the inspection
31 team shall include at least a physician, registered nurse, and
32 persons experienced in hospital administration and sanitary
33 inspections. During the inspection, the team shall offer such
34 advice and assistance to the hospital as it deems appropriate.

35 SEC. 3. Section 1279 is added to the Health and Safety Code,
36 to read:

37 1279. (a) Every health facility for which a license or special
38 permit has been issued, except a health facility, as defined in
39 subdivisions (b) to (k), inclusive, of Section 1250, that is certified
40 to participate either in the Medicare Program under Title XVIII

1 (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act,
2 or in the Medicaid Program under Title XIX (42 U.S.C. Sec.
3 1396 et seq.) of the federal Social Security Act, or both, shall be
4 periodically inspected by a representative or representatives
5 appointed by the state department, depending upon the type and
6 complexity of the health facility or special service to be
7 inspected.

8 (b) If the health facility is deemed to meet standards for
9 certification to participate in either the Medicare Program or the
10 Medicaid Program, or both, because the health facility meets the
11 standards of an agency other than the Health Care Financing
12 Administration, then, in order for the health facility to qualify for
13 the exemption from periodic inspections provided in this section,
14 the inspection to determine that the health facility meets the
15 standards of an agency other than the Health Care Financing
16 Administration shall include participation by the California
17 Medical Association to the same extent as it participated in
18 inspections as provided in Section 1282 prior to September 15,
19 1992.

20 (c) Except as provided in subdivision (d), inspections shall be
21 conducted no less than once every two years and as often as
22 necessary to ensure the quality of care being provided.

23 (d) (1) For a health facility specified in subdivision (a), (b), or
24 (f) of Section 1250, inspections shall be conducted no less than
25 once every three years, and as often as necessary to ensure the
26 quality of care being provided.

27 (2) For a health facility specified in subdivision (a), (b), or (f)
28 of Section 1250, that reports a serious medical error consistent
29 with Section 1279.1, an inspection shall be conducted annually
30 until that facility has had no reported serious medical errors for a
31 period of 18 months.

32 (e) During the inspection, the representative or representatives
33 shall offer any advice and assistance to the health facility as they
34 deem appropriate.

35 (f) For acute care hospitals of 100 beds or more, the inspection
36 team shall include at least a physician, registered nurse, and
37 persons experienced in hospital administration and sanitary
38 inspections. During the inspection, the team shall offer such
39 advice and assistance to the hospital as it deems appropriate.

1 (g) The department shall ensure that a periodic inspection
 2 conducted pursuant to this section is not announced in advance of
 3 the date of the inspection. An inspection may be conducted
 4 jointly with inspections by entities specified in Section 1282.
 5 However, if the department conducts an inspection jointly with
 6 an entity specified in Section 1282 that provides notice in
 7 advance of the periodic inspection, the department shall conduct
 8 an additional periodic inspection that is not announced or noticed
 9 to the health facility.

10 (h) Notwithstanding any other provision of law, the
 11 department shall inspect for compliance with provisions of state
 12 law and regulation during a state or federal periodic inspection,
 13 including, but not limited to, an inspection required under this
 14 section.

15 SEC. 4. Section 1279.1 is added to the Health and Safety
 16 Code, to read:

17 1279.1. (a) A health facility licensed pursuant to subdivision
 18 (a), (b), or (f) of Section 1250 shall report any medical error that
 19 results in serious injury or suspicious death of a patient to the
 20 department not later than 48 hours after the serious injury or
 21 death has occurred.

22 (b) A medical error shall be defined as defined by the Institute
 23 of Medicine’s 1999 report, “To Err is Human: Building a Safer
 24 Health System.”

25 (c) The facility shall inform the patient or the party responsible
 26 for the patient of the report at the time the report is made.

27 SEC. 5. Section 1279.2 is added to the Health and Safety
 28 Code, to read:

29 1279.2. (a) (1) In any case in which the department receives
 30 a report from a facility pursuant to Section 1279.1, or a written or
 31 oral complaint involving a health facility licensed pursuant to
 32 subdivision (a), (b), or (f) of Section 1250, that creates a threat of
 33 imminent danger of death or serious bodily harm, the department
 34 shall make an onsite inspection or investigation within 48 hours
 35 or two business days, whichever is greater, of the receipt of the
 36 report or complaint and shall complete that investigation within
 37 45 days.

38 (2) The department shall ensure that the licensing and
 39 certification branch conducts an unannounced inspection of any

1 health facility that has reported a medical error pursuant to
2 Section 1279.1, not less than once a year.

3 (b) In any case in which a medical error results in the serious
4 injury or suspicious death of a patient and the department is able
5 to determine from the information available to it that there is no
6 threat of imminent danger of death or serious bodily harm to that
7 patient or other patients, the department shall complete an
8 investigation of the report within 45 days.

9 (c) The department shall notify the complainant and licensee
10 in writing of the department’s determination as a result of an
11 inspection or report.

12 (d) For purposes of this section, “complaint” means any oral
13 or written notice to the department, other than a report from the
14 health facility, of an alleged violation of applicable requirements
15 of state or federal law or an allegation of facts that might
16 constitute a violation of applicable requirements of state or
17 federal law.

18 (e) The costs of administering and implementing this section
19 shall be paid from funds derived from existing licensing fees paid
20 by general acute care hospitals and acute psychiatric hospitals.

21 SEC. 6. Section 1279.3 is added to the Health and Safety
22 Code, to read:

23 1279.3. The department shall provide information regarding
24 the outcomes of inspections and investigations conducted
25 pursuant to Section 1279.1, both on the department’s Internet
26 Web site and in written form in a manner that is readily
27 accessible to consumers in all parts of California, and that
28 protects patient confidentiality.

29 SEC. 7. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.

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