

AMENDED IN ASSEMBLY JUNE 13, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE APRIL 6, 2006

AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1301**

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**Introduced by Senator Alquist**

February 16, 2006

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An act to amend Sections 1266 and 1280.1 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 amended, 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 adverse event, as defined, that occurs at a general acute care hospital, acute psychiatric hospital, or special hospital. The bill would require a

general acute care hospital, acute psychiatric hospital, or special hospital to report to the department any adverse event, as defined, within 5 days of its discovery, unless the adverse event is an *ongoing* urgent or emergent threat to the welfare, safety, or health of patients, personnel, or visitors, in which case the event shall be reported to the department within 24 hours of its discovery. The bill would authorize the department to assess specified civil penalties against a licensee for failure to report an adverse event as required by the bill.

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~~ *that indicates an ongoing* 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 *information about the reports and* 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, by January 1, 2009.

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:

1 1266. (a) Each new and renewal application for a license for  
2 the health facilities listed below shall be accompanied by an  
3 annual fee as set forth below.

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

8		
9	1-49 beds	\$460 plus \$8 per bed
10	50-99 beds	\$850 plus \$8 per bed
11	100 or more beds	\$1,175 plus \$8 per bed
12		

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

16		
17	1-59 beds	\$2,068 plus \$26 per bed
18	60-99 beds	\$2,543 plus \$26 per bed
19	100 or more beds	\$3,183 plus \$26 per bed
20		

21 (3) The fees provided in this subdivision shall be adjusted,  
22 commencing July 1, 1983, as proposed in the state department's  
23 1983-84 fiscal year Health Facility License Fee Report to the  
24 Legislature. Commencing July 1, 1984, fees provided in this  
25 subdivision shall be adjusted annually, as directed by the  
26 Legislature in the annual Budget Act.

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

1 under the licensing provisions of this division that are not used to  
2 offset the amount of General Fund money.

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

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

11 (B) The amount of federal funds budgeted for the fiscal year  
12 ending June 30 of that year for the licensing provisions of the  
13 division, less federal funds received or credited, or anticipated to  
14 be received or credited, during that fiscal year for that purpose.

15 The methodology for calculating the fee levels shall include an  
16 adjustment that takes into consideration the actual amount of  
17 license fee revenue collected pursuant to this section for that  
18 prior fiscal year.

19 (3) If the Budget Act provides for expenditures that differ by 5  
20 percent from the Governor's proposed budget, the Department of  
21 Finance shall adjust the fees to reflect that difference and shall  
22 instruct the State Department of Health Services to publish those  
23 fees in accordance with subdivision (d).

24 (c) The annual fees determined pursuant to this section shall  
25 be waived for any health facility conducted, maintained, or  
26 operated by this state or any state department, authority, bureau,  
27 commission, or officer, or by the Regents of the University of  
28 California, or by a local hospital district, city, county, or city and  
29 county.

30 (d) The department shall, within 30 calendar days of the  
31 enactment of the Budget Act, publish a list of actual numerical  
32 fee charges as adjusted pursuant to this section. This adjustment  
33 of fees, any adjustment by the Department of Finance, and the  
34 publication of the fee list shall not be subject to the rulemaking  
35 requirements of Chapter 3.5 (commencing with Section 11340)  
36 of Part 1 of Division 3 of Title 2 of the Government Code. If the  
37 published list of fees is higher than that made available to  
38 interested parties pursuant to subdivision (b), the affected health  
39 facilities may choose to pay the fee in the amount presented at  
40 the public hearing and to defer payment of the additional

1 increment until 60 days after publication of the list of fees  
2 pursuant to this subdivision.

3 (e) Prior to the establishment of the annual fee, the department  
4 shall prepare a staffing and systems analysis to ensure efficient  
5 and effective utilization of fees collected, proper allocation of  
6 departmental resources to licensing and certification activities,  
7 survey schedules, complaint investigations, enforcement and  
8 appeal activities, data collection and dissemination, surveyor  
9 training, and policy development. The analysis shall demonstrate  
10 that the department has sufficient surveyors, other appropriate  
11 professionals, and administrative support personnel to fulfill the  
12 requirements of state and federal law for timely inspections,  
13 complaint investigations within the timeframes specified by law  
14 and regulation, and timely investigations of reports of ~~medical~~  
15 ~~errors~~ *adverse events*. The analysis shall include information on  
16 the proportion of inspections and investigations that were  
17 completed in a timely manner during the preceding year, as well  
18 as the waiting times for change of ownership and new licensees.

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

22 (1) The number of surveyors and administrative support  
23 personnel devoted to the licensing and certification of health care  
24 facilities.

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

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

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

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

32 (6) Training courses provided for surveyors.

33 (7) Other applicable activities of the licensing and certification  
34 division.

35 The analysis shall also include recommendations for  
36 administrative changes to streamline and prioritize the survey  
37 process, complaint investigations, management information  
38 systems, word processing capabilities and effectiveness,  
39 consumer information system, and surveyor training.

1 The annual staffing and systems analysis shall be presented to  
2 the Health Care Advisory Committee and the Legislature prior to  
3 the establishment and adoption of the annual fee.

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

7		
8	1-3 beds	\$ 800
9	4-6 beds	\$1,000
10	7-10 beds	\$1,200
11	11-15 beds	\$1,500
12	16 or more beds	\$1,700

13  
14 Commencing July 1, 1991, fees provided in this subdivision shall  
15 be adjusted annually, as directed by the Legislature in the annual  
16 budget.

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

21		
22	1-3 beds or clients	\$ 800
23	4-6 beds or clients	\$1,000
24	7-10 beds or clients	\$1,200
25	11-15 beds or clients	\$1,500
26	16 or more beds or clients	\$1,700 plus \$50 for each additional bed
27		or client over 16 beds or clients

28  
29 Commencing July 1, 1993, fees provided in this subdivision shall  
30 be adjusted annually, as directed by the Legislature in the annual  
31 Budget Act.

32 (h) The department shall, in consultation with affected  
33 provider representatives, develop a specific proposal by July 1,  
34 1995, to do all of the following:

35 (1) Revise the health facility licensure fee methodologies in a  
36 manner that addresses the fee methodology and subsidy issues  
37 described in the State Auditor Report Number 93020, Issues 2  
38 and 3.

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

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

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

8 SEC. 2. Section 1279 of the Health and Safety Code is  
9 repealed.

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

12 1279. (a) Every health facility for which a license or special  
13 permit has been issued, except a health facility, as defined in  
14 subdivisions (b) to (k), inclusive, of Section 1250, that is certified  
15 to participate either in the Medicare Program under Title XVIII  
16 (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act,  
17 or in the Medicaid Program under Title XIX (42 U.S.C. Sec.  
18 1396 et seq.) of the federal Social Security Act, or both, shall be  
19 periodically inspected by a representative or representatives  
20 appointed by the state department, depending upon the type and  
21 complexity of the health facility or special service to be  
22 inspected.

23 (b) If the health facility is deemed to meet standards for  
24 certification to participate in either the Medicare Program or the  
25 Medicaid Program, or both, because the health facility meets the  
26 standards of an agency other than the ~~Health Care Financing~~  
27 ~~Administration~~ *Centers for Medicare and Medicaid Services*,  
28 then, in order for the health facility to qualify for the exemption  
29 from periodic inspections provided in this section, the inspection  
30 to determine that the health facility meets the standards of an  
31 agency other than the ~~Health Care Financing Administration~~  
32 *Centers for Medicare and Medicaid Services* shall include  
33 participation by the California Medical Association to the same  
34 extent as it participated in inspections as provided in Section  
35 1282 prior to September 15, 1992.

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

39 (d) For a health facility specified in subdivision (a), (b), or (f)  
40 of Section 1250, inspections shall be conducted no less than once

1 every three years, and as often as necessary to ensure the quality  
2 of care being provided.

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

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

11 (g) The department shall ensure that a periodic inspection  
12 conducted pursuant to this section is not announced in advance of  
13 the date of the inspection. An inspection may be conducted  
14 jointly with inspections by entities specified in Section 1282.  
15 However, if the department conducts an inspection jointly with  
16 an entity specified in Section 1282 that provides notice in  
17 advance of the periodic inspection, the department shall conduct  
18 an additional periodic inspection that is not announced or noticed  
19 to the health facility.

20 (h) Notwithstanding any other provision of law, the  
21 department shall inspect for compliance with provisions of state  
22 law and regulation during a state or federal periodic inspection,  
23 including, but not limited to, an inspection required under this  
24 section.

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

27 1279.1. (a) A health facility licensed pursuant to subdivision  
28 (a), (b), or (f) of Section 1250 shall report an adverse event to the  
29 department no later than five days after the adverse event has  
30 been detected, or, if that event is an *ongoing* urgent or emergent  
31 threat to the welfare, health, or safety of patients, personnel, or  
32 visitors, not later than 24 hours after the adverse event has been  
33 detected. Disclosure of individually identifiable patient  
34 information shall be consistent with applicable law.

35 (b) For purposes of this section, “adverse event” means an  
36 event or series of events that causes the death or serious disability  
37 of a patient, personnel, or visitor, and includes any of the  
38 following:

39 (1) Surgical events, including the following:

- 1 (A) Surgery performed on a wrong body part that is  
2 inconsistent with the documented informed consent for that  
3 patient. ~~Reportable events~~ *A reportable event* under this  
4 subparagraph ~~do not include situations~~ *does not include a*  
5 *situation* requiring prompt action that ~~occur~~ *occurs* in the course  
6 of surgery or ~~situations whose urgency precludes a situation that~~  
7 *is so urgent as to preclude* obtaining informed consent.
- 8 (B) Surgery performed on the wrong patient.
- 9 (C) *The wrong surgical procedure performed on a patient.*
- 10 ~~(C)~~
- 11 (D) A surgical procedure performed on a patient that is  
12 inconsistent with the documented informed consent for that  
13 patient. A reportable event under this subparagraph does not  
14 include a situation requiring prompt action that occurs in the  
15 course of surgery, or ~~an urgent situation that precludes a situation~~  
16 *that is so urgent as to preclude* the obtaining of informed  
17 consent.
- 18 ~~(D)~~
- 19 (E) Retention of a foreign object in a patient after surgery or  
20 other procedure, excluding objects intentionally implanted as part  
21 of a planned intervention and objects present prior to surgery that  
22 are intentionally retained.
- 23 ~~(E)~~
- 24 (F) Death during or up to 24 hours after induction of  
25 anesthesia after surgery of a normal, healthy patient who has no  
26 organic, physiologic, biochemical, or psychiatric disturbance and  
27 for whom the pathologic processes for which the operation is to  
28 be performed are localized and do not entail a systemic  
29 disturbance.
- 30 (2) Product or device events, including the following:
- 31 (A) Patient death or serious disability associated with the use  
32 of a contaminated drug, device, or biologic provided by the  
33 health facility when the contamination is the result of generally  
34 detectable contaminants in the drug, device, or biologic,  
35 regardless of the source of the contamination or the product.
- 36 (B) Patient death or serious disability associated with the use  
37 or function of a device in patient care in which the device is used  
38 or functions other than as intended. For purposes of this  
39 subparagraph, “device” includes, but is not limited to, a catheter,  
40 drain, or other specialized tube, infusion pump, or ventilator.

1 (C) Patient death or serious disability associated with  
2 intravascular air embolism that occurs while being cared for in a  
3 facility, excluding deaths associated with neurosurgical  
4 procedures known to present a high risk of intravascular air  
5 embolism.

6 (3) Patient protection events, including the following:

7 (A) An infant discharged to the wrong person.

8 (B) Patient death or serious disability associated with patient  
9 disappearance for more than four hours, excluding events  
10 involving adults who have competency or decisionmaking  
11 capacity.

12 (C) A patient suicide or attempted suicide resulting in serious  
13 disability while being cared for in a health facility due to patient  
14 actions after admission to the health facility, excluding deaths  
15 resulting from self-inflicted injuries that were the reason for  
16 admission to the health facility.

17 (4) Care management events, including the following:

18 (A) A patient death or serious disability associated with a  
19 medication error, including, but not limited to, an error involving  
20 the wrong drug, the wrong dose, the wrong patient, the wrong  
21 time, the wrong rate, the wrong preparation, or the wrong route  
22 of administration, excluding reasonable differences in clinical  
23 judgment on drug selection and dose.

24 (B) A patient death or serious disability associated with a  
25 hemolytic reaction due to the administration of  
26 ABO-incompatible blood or blood products.

27 (C) Maternal death or serious disability associated with labor  
28 or delivery in a low-risk pregnancy while being cared for in a  
29 facility, including events that occur within 42 days postdelivery  
30 and excluding deaths from pulmonary or amniotic fluid  
31 embolism, acute fatty liver of pregnancy, or cardiomyopathy.

32 (D) Patient death or serious disability directly related to  
33 hypoglycemia, the onset of which occurs while the patient is  
34 being cared for in a health facility.

35 (E) Death or serious disability, including kernicterus,  
36 associated with failure to identify and treat hyperbilirubinemia in  
37 neonates during the first 28 days of life. For purposes of this  
38 subparagraph, “hyperbilirubinemia” means bilirubin levels  
39 greater than 30 milligrams per deciliter.

- 1 (F) A Stage 3 or 4 ulcer, acquired after admission to a health  
2 facility, excluding progression from Stage 2 to Stage 3 if Stage 2  
3 was recognized upon admission.
- 4 (G) A patient death or serious disability due to spinal  
5 manipulative therapy performed at the health facility.
- 6 (5) Environmental events, including the following:
- 7 (A) A patient death or serious disability associated with an  
8 electric shock while being cared for in a health facility, excluding  
9 events involving planned treatments, such as electric  
10 countershock.
- 11 (B) Any incident in which a line designated for oxygen or  
12 other gas to be delivered to a patient contains the wrong gas or is  
13 contaminated by a toxic substance.
- 14 (C) A patient death or serious disability associated with a burn  
15 incurred from any source while being cared for in a health  
16 facility.
- 17 (D) A patient death associated with a fall while being cared for  
18 in a health facility.
- 19 (E) A patient death or serious disability associated with the use  
20 of restraints or bedrails while being cared for in a health facility.
- 21 (6) Criminal events, including the following:
- 22 (A) Any instance of care ordered by or provided by someone  
23 impersonating a physician, nurse, pharmacist, or other licensed  
24 health care provider.
- 25 (B) The abduction of a patient of any age.
- 26 (C) The sexual assault on a patient within or on the grounds of  
27 a health facility.
- 28 (D) The death or significant injury of a patient or staff member  
29 resulting from a physical assault that occurs within or on the  
30 grounds of a facility.
- 31 (d) The facility shall inform the patient or the party  
32 responsible for the patient of the ~~report~~ *at adverse event by the*  
33 *time the report is made.*
- 34 (e) “Serious disability” means a physical or mental impairment  
35 that substantially limits one or more of the major life activities of  
36 an individual, or the loss of bodily function, if the impairment or  
37 loss lasts more than 7 days or is still present at the time of  
38 discharge from an inpatient health care facility or the loss of a  
39 body part.

1 (f) Nothing in this section shall be interpreted to change or  
2 otherwise affect hospital reporting requirements regarding  
3 reportable diseases or unusual occurrences, as provided in  
4 Section 70737 of Title 22 of the California Code of Regulations.  
5 *The department shall review Section 70737 of Title 22 of the*  
6 *California Code of Regulations requiring hospitals to report*  
7 *“unusual circumstances” and consider amending the section to*  
8 *enhance the clarity and specificity of this hospital reporting*  
9 *requirement.*

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

12 1279.2. (a) (1) In any case in which the department receives  
13 a report from a facility pursuant to Section 1279.1, or a written or  
14 oral complaint involving a health facility licensed pursuant to  
15 subdivision (a), (b), or (f) of Section 1250, that ~~creates a~~  
16 *indicates an ongoing* threat of imminent danger of death or  
17 serious bodily harm, the department shall make an onsite  
18 inspection or investigation within 48 hours or two business days,  
19 whichever is greater, of the receipt of the report or complaint and  
20 shall complete that investigation within 45 days.

21 (2) The department shall ensure that the licensing and  
22 certification branch conducts an unannounced inspection of any  
23 health facility that has reported an adverse event pursuant to  
24 Section 1279.1, not less than once a year, or until the facility has  
25 demonstrated that the adverse event has been resolved.

26 (b) In any case in which the department is able to determine  
27 from the information available to it that there is no threat of  
28 imminent danger of death or serious bodily harm to that patient  
29 or other patients, the department shall complete an investigation  
30 of the report within 45 days.

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

34 (d) For purposes of this section, “complaint” means any oral  
35 or written notice to the department, other than a report from the  
36 health facility, of an alleged violation of applicable requirements  
37 of state or federal law or an allegation of facts that might  
38 constitute a violation of applicable requirements of state or  
39 federal law.

1 (e) The costs of administering and implementing this section  
2 shall be paid from funds derived from existing licensing fees paid  
3 by general acute care hospitals ~~and~~, acute psychiatric hospitals,  
4 *and special hospitals.*

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

7 1279.3. By January 1, 2009, the department shall provide  
8 information regarding *reports of adverse events pursuant to*  
9 *Section 1279.1* and the outcomes of inspections and  
10 investigations conducted pursuant to Section 1279.2, ~~both~~ on the  
11 department's Internet Web site and in written form in a manner  
12 that is readily accessible to consumers in all parts of California,  
13 and that protects patient confidentiality. The information shall  
14 include, but not be limited to, information regarding each adverse  
15 event, as defined in Section 1279.1, reported to the department,  
16 and may include compliance information history. *The names of*  
17 *the health care professionals and health care workers shall not*  
18 *be included in the information released by the department to the*  
19 *public.*

20 SEC. 7. Section 1280.1 of the Health and Safety Code is  
21 amended to read:

22 1280.1. (a) (1) If a licensee of a health facility licensed  
23 under subdivision (a), (b), or (f) of Section 1250 fails to correct a  
24 deficiency within the time specified in a plan of correction, the  
25 state department may assess the licensee a civil penalty in an  
26 amount not to exceed fifty dollars (\$50) per patient affected by  
27 the deficiency for each day that the deficiency continues beyond  
28 the date specified for correction. The civil penalties shall be  
29 assessed only for deficiencies that pose an immediate and  
30 substantial hazard to the health or safety of patients. If the  
31 licensee disputes a determination by the state department  
32 regarding alleged failure to correct a deficiency or regarding the  
33 reasonableness of the proposed deadline for correction, the  
34 licensee may, within 10 days, request a hearing pursuant to  
35 Section 100171. Penalties shall be paid when appeals pursuant to  
36 those provisions have been exhausted.

37 (2) Paragraph (1) shall not apply to a deficiency for which a  
38 facility was cited prior to January 1, 1994.

39 (b) If a licensee of a health facility licensed under subdivision  
40 (a), (b), or (f) of Section 1250 fails to report an adverse event

1 pursuant to Section 1279.1, the department may assess the  
2 licensee a civil penalty in an amount not to exceed one hundred  
3 dollars (\$100) for each day that the adverse event is not reported  
4 following the initial five-day period or 24-hour period, as  
5 applicable, pursuant to subdivision (a) of Section 1279.1. If the  
6 licensee disputes a determination by the department regarding  
7 alleged failure to report an adverse event, the licensee may,  
8 within 10 days, request a hearing pursuant to Section 100171.  
9 Penalties shall be paid when appeals pursuant to those provisions  
10 have been exhausted.

11 SEC. 8. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.