

AMENDED IN SENATE JULY 2, 2007

AMENDED IN SENATE JUNE 14, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1749

Introduced by Committee on Health (Dymally (Chair), Bass, Berg, De Leon, Gaines, Hancock, Hayashi, Huff, Jones, Lieber, and Salas)

March 22, 2007

~~An act to amend Sections 1341.4, 1342.5, 1343, 1347.15, 1352, 1367.07, and 1389.4 of, and to repeal Section 1342.1 of, the Health and Safety Code, and to amend Sections 106 and 10113.95 of, and to repeal Section 12693.365 of, the Insurance Code, relating to health care coverage. An act to add Section 12712 to the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1749, as amended, Committee on Health. ~~Health care coverage.~~
Acute care facilities: temporary manager.

Existing law provides for the licensure and regulation of health facilities, including general acute care hospitals and long-term health care facilities, by the State Department of Public Health.

Existing law prohibits the operation, establishment, management, conduct, or maintenance of a health facility without having first obtained a license, or the continued operation, conduct, or maintenance of an existing health facility without having obtained a license. Existing law also authorizes the court to appoint a receiver to temporarily operate an existing long-term health care facility under certain conditions.

Existing law also authorizes the department to appoint a temporary manager to operate a long-term care facility under certain conditions.

This bill would authorize the department to appoint a temporary manager to operate a general acute care hospital in an underserved community under certain conditions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care.~~

~~Existing law also provides for the regulation of health insurers by the Department of Insurance and defines health insurance as an individual or group disability insurance policy that provides coverage for hospital, medical, or surgical benefits. Under existing law, a health insurer and a full service health care service plan that markets and sells individual health insurance policies or individual health plan contracts are required to maintain underwriting guidelines, as specified, and to file annually with the Insurance Commissioner or with the Department of Managed Health Care a general description of their rating and underwriting guidelines for individual health insurance policies or individual health plan contracts.~~

~~This bill would specify that the requirements applicable to a health insurer and a full service health care service plan that markets and sells individual health insurance policies or individual health plan contracts apply to a health insurer or a full service health care service plan that issues, renews, or amends an individual health insurance policy or an individual health plan contract. The bill would specify that these requirements do not apply to a closed block of business, as defined, of a plan or health insurer. The bill would provide that, in a statute that becomes effective January 1, 2008, the term “specialized health insurance policy” means a policy of health insurance for covered benefits in a single specialized area of health care. The bill would make nonsubstantive changes to various provisions pertaining to the regulation of health care service plans and would delete certain obsolete provisions.~~

~~(2) Existing law establishes the Healthy Families Program administered by the Managed Risk Medical Insurance Board to provide health care services to eligible children. Existing law authorizes certain geographic managed care plans, as defined, that do not have a commercial license from the Department of Managed Health Care to contract with the board for a maximum period of 12 months.~~

~~This bill would repeal that provision.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 12712 is added to the Health and Safety
2 Code, to read:

3 12712. (a) It is the intent of the Legislature in enacting this
4 section to empower the State Department of Public Health to take
5 quick, effective action to protect the health and safety of general
6 acute care hospital patients in significantly underserved
7 communities and to minimize the effects of a closure or major
8 downsizing of critical health services.

9 (b) For purposes of this section, “temporary manager” means
10 the person, corporation, or other entity, appointed temporarily by
11 the State Department of Public Health as a substitute facility
12 manager or administrator with authority to hire, terminate, or
13 reassign staff, obligate facility funds, alter facility procedures,
14 and manage the facility to correct deficiencies identified in the
15 facility’s operation.

16 (c) The director may appoint a temporary manager when the
17 patients of a general acute care hospital in an underserved
18 community are in immediate danger of death or permanent injury
19 by virtue of the failure of the facility to comply with federal or
20 state requirements applicable to the operation of the facility.

21 (d) Upon appointment, the temporary manager shall take all
22 necessary steps and make best efforts to eliminate immediate
23 danger of death or permanent injury to patients or complete
24 transfer of patients to alternative placements.

25 (e) (1) The appointment of a temporary manager shall become
26 effective immediately and shall continue until any of the following
27 events occur:

28 (A) The temporary manager notifies the department, and the
29 department verifies, that the facility meets state and, if applicable,
30 federal standards for operation, and will be able to continue to
31 maintain compliance with those standards after the termination
32 of temporary management.

33 (B) The department approves a new management company.

34 (C) A new operator is licensed.

1 (D) The department closes the facility, through an orderly
2 transfer of the patients.

3 (E) A hearing or court order ends the temporary manager
4 appointment.

5 (F) The appointment is terminated by the department or the
6 temporary manager.

7 (2) The appointment of a temporary manager shall authorize
8 the temporary manager to act pursuant to this section. The
9 appointment shall be made pursuant to an agreement between the
10 temporary manager and the department that outlines the
11 circumstances under which the temporary manager may expend
12 funds. The temporary manager shall make no long-term capital
13 investments in the facility without the permission of the department.
14 The department shall provide the licensee and administrator with
15 a statement of allegations at the time of appointment. Within 48
16 hours, the department shall provide the licensee and the
17 administrator with a formal statement of cause and concerns. The
18 statement of cause and concerns shall specify the factual and legal
19 basis for the imposition of the temporary manager and shall be
20 supported by the declaration of the director or the director's
21 authorized designee. The statement of cause and concerns shall
22 notify the licensee right to petition the Office of Administrative
23 Hearings for a hearing to contest the appointment of the temporary
24 manager and shall provide the licensee with a form and
25 appropriate information for the licensee's use in requesting a
26 hearing.

27 (f) The temporary manager appointed pursuant to this section
28 shall meet the following qualifications:

29 (1) Be qualified to oversee correction of deficiencies on the
30 basis of experience and education.

31 (2) Not have been found guilty of misconduct by any licensing
32 board.

33 (3) Have no financial ownership interest in the facility and have
34 no member of his or her immediate family who has a financial
35 ownership interest in the facility.

36 (4) Not currently serve, or within the past two years have served,
37 as a member of the staff of the facility.

38 (5) Be acceptable to the facility.

39 (g) Payment of the temporary manager's salary or fee shall
40 comply with the following requirements:

1 (1) Shall be paid directly by the facility while the temporary
2 manager is assigned to that facility.

3 (2) Shall be equivalent to the sum of the following:

4 (A) The prevailing salary or fee paid by licensees for positions
5 of the same type in the facility's geographic area.

6 (B) Additional costs that reasonably would have been incurred
7 by the licensee if the licensee had been in an employment
8 relationship.

9 (C) Any other reasonable costs incurred by the appointed
10 temporary manager in furnishing services pursuant to this section.

11 (3) May exceed the amount specified in paragraph (2) if the
12 department is otherwise unable to attract a qualified temporary
13 manager.

14 SEC. 2. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the Constitution and shall go into
17 immediate effect. The facts constituting the necessity are:

18 In order to prevent the closure of an acute care facility that
19 provides necessary and urgently needed medical care to an
20 underserved community, it is necessary for this act to go into effect
21 immediately.

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**All matter omitted in this version of the bill
appears in the bill as amended in Senate,
June 14, 2007 (JR11)**