

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2741

Introduced by Assembly Member Torrico

February 22, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2741, as amended, Torrico. Hospitals: management requirements.

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

Existing law requires that, with respect to any individual or entity that seeks approval to operate or manage a health facility, as defined, the department shall consider specific evidence in making determinations regarding character and ability to comply with applicable licensing and regulatory provisions and to consider specified factors with respect to the applicant's character, including the financial capacity to provide care in accordance with existing state and federal requirements, and the ability to comply with statutory provisions relating to regulation of the facility.

This bill would provide that if the applicant has not met certain statutory requirements regulating the sale, transfer, lease, exchange, option, conveyance, or otherwise disposal of the assets, or control thereof, of a nonprofit corporation that operates or controls a facility that provides health care, the department shall obtain a health impact

analysis of the transaction in order to determine whether the transaction may create a significant effect on the availability or accessibility of health care services to the affected community and whether the transaction is in the public interest. The bill would allow the department to contract with an expert or consultant to review the proposed transaction and would entitle the department to reimbursement for reasonable and necessary costs *of this review* from the applicant.

By increasing the scope of the definition of a crime, this bill would result in 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 1265.3 of the Health and Safety Code is
2 amended to read:

3 1265.3. (a) For any individual or entity that seeks approval to
4 operate or manage a health facility licensed pursuant to subdivision
5 (a), (b), or (f) of Section 1250 and is subject to Section 1265, the
6 department shall consider the following:

7 (1) To determine whether the applicant is of reputable and
8 responsible character, the department shall consider any available
9 information that the applicant has demonstrated a pattern and
10 practice of violations of state or federal laws and regulations. The
11 department shall give particular consideration to those violations
12 that affect the applicant’s ability to deliver safe patient care.

13 (2) To determine whether the applicant has the ability to comply
14 with this chapter and the rules and regulations adopted under this
15 chapter, the department shall consider evidence that shall include
16 all of the following:

17 (A) If any, prior history of operating in this state any other
18 facility licensed pursuant to Section 1250, and the applicant’s
19 history of substantial compliance with the requirements imposed
20 under that license, applicable federal laws and regulations, and
21 requirements governing the operators of those facilities.

1 (B) If any, prior history of operating in any other state any
2 facility authorized to receive Medicare Program reimbursement
3 or Medicaid Program reimbursement, and the applicant's history
4 of substantial compliance with that state's requirements, and
5 applicable federal laws, regulations, and requirements.

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

11 (b) If the applicant has not met the requirements of Section 5917
12 or 5923 of the Corporations Code, the department shall obtain a
13 health impact analysis of the transaction in order to determine
14 whether the transaction may create a significant effect on the
15 availability or accessibility of health care services to the affected
16 community and whether the transaction is in the public interest.
17 The department may contract with experts or consultants to assist
18 in reviewing the proposed transaction and shall be entitled to
19 reimbursement from the applicant for reasonable and necessary
20 costs *to the department arising from this subdivision.*

21 (c) The department may also require the entity described in
22 subdivision (a) to furnish other information or documents for the
23 proper administration and enforcement of the licensing laws.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.