

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN SENATE MAY 16, 2007

AMENDED IN SENATE APRIL 24, 2007

SENATE BILL

No. 633

Introduced by Senator Alquist

February 22, 2007

An act to amend Section 1262.5 of the Health and Safety Code, relating to persons with disabilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 633, as amended, Alquist. Persons with disabilities: care in community settings and hospital discharge planning policies.

Existing law prohibits unjustified institutionalization of persons with disabilities and requires that services be provided in community settings when possible.

This bill would declare the intent of the Legislature regarding the state's commitment to providing services for persons with disabilities *and seniors* in the most integrated setting.

Existing law provides for the licensure and regulation of health facilities, including hospitals, as defined. Existing law requires each hospital to have a written discharge planning policy and process, as specified. Violation of the provisions relating to the licensure and regulation of health care facilities is a crime.

This bill would require a hospital to provide every patient anticipated to be in need of long-term care at the time of discharge with contact information for at least one public or nonprofit agency or organization dedicated to providing information or referral services relating to community-based long-term care options in the patient's county of

residence. By changing the definition of an existing crime, 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. The Legislature finds and declares all of the
2 following:

3 (a) On June 22, 1999, the United States Supreme Court issued
4 a decision in the case of *Olmstead v. L.C.*, finding that the
5 unjustified institutional isolation of people with disabilities *and*
6 *seniors* is a violation of the Americans with Disabilities Act
7 (ADA).

8 (b) The court found that under certain circumstances, regulations
9 implementing Title II of the ADA require the placement of persons
10 with disabilities *and seniors* in community settings rather than
11 institutions.

12 (c) The decision challenged federal, state, and local governments
13 to develop cost-effective community-based services to prevent or
14 delay institutionalization.

15 (d) Unnecessary institutional placement, such as nursing homes,
16 state hospitals, and other nonhome-like settings, of individuals
17 with disabilities *and seniors* adversely affects the everyday life
18 activities, family relations, social contacts, work options, economic
19 independence, and cultural enrichment of those institutionalized
20 persons.

21 (e) The state has a responsibility to protect against the
22 unnecessary institutionalization of individuals with disabilities
23 *and seniors*.

24 (f) The opportunity to direct one's own affairs, live
25 independently, and attain economic self-sufficiency is an essential
26 component of developing self-worth and personal responsibility.

1 (g) Direction has been provided to states under the Americans
2 with Disabilities Act and the United States Supreme Court's
3 decision in *Olmstead v. L.C.*.

4 (h) Community-based care and services can be more cost
5 effective than institutional care, and result in a higher quality of
6 life that promotes the values of community participation,
7 inclusiveness, and respect for diversity.

8 (i) The active involvement of people with disabilities *and seniors*
9 and their representatives in the development and implementation
10 of activities designed to move people into, or allow them to remain
11 in, community-based settings is critical to ensuring effective
12 strategies.

13 (j) California has demonstrated only a mediocre record of
14 success in providing services that support the full integration of
15 persons with disabilities *and seniors* in community life.

16 (k) It is possible to build upon California's previous success to
17 improve procedures and implement new tools that will enable more
18 people to fully access their communities.

19 SEC. 2. (a) The state affirms its commitment to provide
20 services to people with disabilities *and seniors* in the most
21 integrated setting, and to adopt and adhere to policies and practices
22 that make it possible for persons with disabilities *and seniors* to
23 remain in their communities and avoid unnecessary
24 institutionalization.

25 (b) It is the intent of this act to make proven case management
26 services that help disabled persons *and seniors* who would
27 otherwise be placed in an institutional setting, including, but not
28 limited to, a nursing home, remain in their own homes or
29 communities, available to all consumers who qualify for those
30 services.

31 SEC. 3. Section 1262.5 of the Health and Safety Code is
32 amended to read:

33 1262.5. (a) Each hospital shall have a written discharge
34 planning policy and process.

35 (b) The policy required by subdivision (a) shall require that
36 appropriate arrangements for posthospital care, including, but not
37 limited to, care at home, in a skilled nursing or intermediate care
38 facility, or from a hospice, are made prior to discharge for those
39 patients who are likely to suffer adverse health consequences upon
40 discharge if there is no adequate discharge planning. If the hospital

1 determines that the patient and family members or interested
2 persons need to be counseled to prepare them for posthospital care,
3 the hospital shall provide for that counseling.

4 (c) The process required by subdivision (a) shall require that
5 the patient be informed, orally or in writing, of the continuing
6 health care requirements following discharge from the hospital.
7 The right to information regarding continuing health care
8 requirements following discharge shall apply to the person who
9 has legal responsibility to make decisions regarding medical care
10 on behalf of the patient, if the patient is unable to make those
11 decisions for himself or herself. In addition, a patient may request
12 that friends or family members be given this information, even if
13 the patient is able to make his or her own decisions regarding
14 medical care.

15 (d) (1) A transfer summary shall accompany the patient upon
16 transfer to a skilled nursing or intermediate care facility or to the
17 distinct part-skilled nursing or intermediate care service unit of
18 the hospital. The transfer summary shall include essential
19 information relative to the patient's diagnosis, hospital course,
20 pain treatment and management, medications, treatments, dietary
21 requirement, rehabilitation potential, known allergies, and treatment
22 plan, and shall be signed by the physician.

23 (2) A copy of the transfer summary shall be given to the patient
24 and the patient's legal representative, if any, prior to transfer to a
25 skilled nursing or intermediate care facility.

26 (e) A hospital shall establish and implement a written policy to
27 ensure that each patient receives, at the time of discharge,
28 information regarding each medication dispensed, pursuant to
29 Section 4074 of the Business and Professions Code.

30 (f) A hospital shall provide every patient anticipated to be in
31 need of long-term care at the time of discharge with contact
32 information for at least one public or nonprofit agency or
33 organization dedicated to providing information or referral services
34 relating to community-based long-term care options in the patient's
35 county of residence. At a minimum, this information shall include
36 contact information for the area agency on aging serving the
37 patient's county of residence.

38 (g) A contract between a general acute care hospital and a health
39 care service plan that is issued, amended, renewed, or delivered
40 on or after January 1, 2002, may not contain a provision that

1 prohibits or restricts any health care facility’s compliance with the
2 requirements of this section.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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