

Senate Bill No. 633

CHAPTER 472

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

[Approved by Governor October 11, 2007. Filed with Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 633, 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 and appropriate to the needs and characteristics of the patient. 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.

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

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility, or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

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

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

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

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

(f) A hospital shall 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 and appropriate to the needs and characteristics of the patient. At a minimum, this information shall include contact information for the area agency on aging serving the patient's county of residence, local independent living centers, or other information appropriate to the needs and characteristics of the patient.

(g) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, may not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because

this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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