

ASSEMBLY BILL

No. 392

**Introduced by Assembly Members Feuer and Jones
(Principal coauthor: Assembly Member Bonnie Lowenthal)
(Coauthors: Assembly Members Hill, Huffman, Lieu, Monning,
Price, and Ruskin)**

February 23, 2009

An act to amend Section 1417.2 of the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 392, as introduced, Feuer. Long-term health care facilities.

Existing law provides for the licensure of long-term health care facilities by the State Department of Public Health. Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, the department may assess penalties for violation of prescribed state and federal requirements. Moneys collected as a result of the penalties imposed pursuant to these provisions are required to be deposited into either the State Health Facilities Citation Penalties Account or the Federal Health Facilities Citation Penalties Account, and used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, including reimbursing residents for personal funds lost and costs associated with informational meetings.

Existing law establishes the Office of the State Long-Term Care Ombudsman in the California Department of Aging. Under existing law, the office is responsible for, among other things, investigating and resolving complaints and concerns communicated by or on behalf of patients, residents, or clients of long-term care facilities, as defined.

Existing law authorizes the California Department of Aging to allocate all federal and state funds for local ombudsman programs according to a specified distribution schedule.

This bill would require at least 1/2 of the funds in the State Health Facilities Citation Penalties Account and the Federal Health Facilities Citation Penalties Account be used to fund local ombudsman programs pursuant to the aforementioned distribution schedule.

Vote: majority. 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 1417.2 of the Health and Safety Code is
2 amended to read:

3 1417.2. (a) Notwithstanding Section 1428, moneys collected
4 as a result of state and federal civil penalties imposed under this
5 chapter or federal law shall be deposited into accounts that are
6 hereby established in the Special Deposit Fund created pursuant
7 to Section 16370 of the Government Code. These accounts are
8 titled the State Health Facilities Citation Penalties Account, into
9 which moneys derived from civil penalties for violations of state
10 law shall be deposited, and the Federal Health Facilities Citation
11 Penalties Account, into which moneys derived from civil penalties
12 for violations of federal law shall be deposited. Moneys from these
13 accounts shall be used, notwithstanding Section 16370 of the
14 Government Code, upon appropriation by the Legislature, *as*
15 *follows:*

16 (1) *At least one-half of the funds in the accounts shall be used*
17 *to fund the local ombudsman programs pursuant to the distribution*
18 *schedule in Section 9719.5 of the Welfare and Institutions Code.*

19 (2) *The remaining funds in the accounts that are not used*
20 *pursuant to paragraph (1) shall be used in accordance with state*
21 *and federal law for the protection of health or property of residents*
22 *of long-term health care facilities, including, but not limited to,*
23 *the following:*

24 (1)

25 (A) Relocation expenses incurred by the department, in the event
26 of a facility closure.

27 (2)

1 (B) Maintenance of facility operation pending correction of
2 deficiencies or closure, such as temporary management or
3 receivership, in the event that the revenues of the facility are
4 insufficient.

5 ~~(3)~~

6 (C) Reimbursing residents for personal funds lost. In the event
7 that the loss is a result of the actions of a long-term health care
8 facility or its employees, the revenues of the facility shall first be
9 used.

10 ~~(4)~~

11 (D) The costs associated with informational meetings required
12 under Section 1327.2.

13 (b) Notwithstanding subdivision (a), the balance in the State
14 Health Facilities Citation Penalties Account shall not, at any time,
15 exceed ten million dollars (\$10,000,000).

16 (c) Moneys from the Federal Health Facilities Citation Penalties
17 Account, in the amount not to exceed one hundred thirty thousand
18 dollars (\$130,000), may also be used, notwithstanding Section
19 16370 of the Government Code, upon appropriation by the
20 Legislature, in accordance with state and federal law for the
21 improvement of quality of care and quality of life for long-term
22 health care facilities residents pursuant to Section 1417.3.

23 (d) The department shall post on its Internet Web site, and shall
24 update on a quarterly basis, all of the following regarding the funds
25 in the State Health Facilities Citation Penalties Account and the
26 Federal Health Facilities Citation Penalties Account:

27 (1) The specific sources of funds deposited into the account.

28 (2) The amount of funds in the account that have not been
29 allocated.

30 (3) A detailed description of how funds in the account have
31 been allocated and expended, including, but not limited to, the
32 names of persons or entities that received the funds, the amount
33 of salaries paid to temporary managers, and a description of
34 equipment purchased with the funds. However, the description
35 shall not include the names of residents.

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