

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1303**

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**Introduced by Assembly Member Hall**

February 27, 2009

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~~An act to amend Section 1422 of the Health and Safety Code, relating to long-term health care facilities. An act to add Section 1254.3 to the Health and Safety Code, relating to the Martin Luther King, Jr. Hospital.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as amended, Hall. ~~Long-term health care facilities. Martin Luther King, Jr. Hospital: reopening plan: working group.~~

~~Existing law requires the State Department of Public Health to inspect and license health facilities, as defined, including hospitals.~~

~~This bill would require the department to convene a working group of stakeholders to assist in the implementation of the plan to reopen the Martin Luther King, Jr. Hospital, in the Watts/Willowbrook area of south Los Angeles County. The bill would specify the membership of the working group, and the issues to be considered by the group. The bill would require the working group to prepare a report of its findings and recommendations pursuant to the bill.~~

~~The bill would also state the findings and declarations of the Legislature concerning the need for special legislation.~~

~~Existing law establishes various programs for the prevention of disease and the promotion of health to be administered by the State Department of Public Health, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, long-term health care facilities, as defined.~~

~~This bill would make a technical, nonsubstantive change.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

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

1     SECTION 1. Section 1254.3 is added to the Health and Safety  
2     Code, to read:  
3     1254.3. (a) The department shall convene a working group of  
4     stakeholders, to assist in the implementation of the plan to reopen  
5     the Martin Luther King, Jr. Hospital, located in the  
6     Watts/Willowbrook area of south Los Angeles County.  
7     (b) The working group shall include, but not be limited to,  
8     representatives of the department, the Los Angeles County Board  
9     of Supervisors, the Regents of the University of California, with  
10    the regents' consent, and any other parties that the department  
11    deems necessary to facilitate the reopening plan.  
12    (c) The working group shall review and examine issues relating  
13    to the hospital reopening, including, but not limited to, all of the  
14    following:  
15    (1) Clarification of the respective roles of the county and the  
16    regents.  
17    (2) Selection of a suitable nonprofit entity to undertake the  
18    daily operation of the hospital, pursuant to a contract with the  
19    University of California and the county.  
20    (3) Securing appropriate funding, including making  
21    recommendations to the Legislature for necessary statutory  
22    changes.  
23    (4) Development of the hospital's teaching component.  
24    (d) The working group shall prepare a report of its findings and  
25    recommendations made pursuant to this section.  
26    SEC. 2. Due to the unique circumstances concerning the Martin  
27    Luther King, Jr. Hospital within Los Angeles County, the  
28    Legislature finds and declares that a general statute cannot be  
29    made applicable within the meaning of Section 16 of Article IV of  
30    the California Constitution. Therefore, this act is necessarily  
31    applicable only to the Martin Luther King, Jr. Hospital.  
32    SECTION 1. ~~Section 1422 of the Health and Safety Code is~~  
33    ~~amended to read:~~  
34    ~~1422. (a) The Legislature finds and declares that it is the public~~  
35    ~~policy of this state to ensure that long-term health care facilities~~

1 provide the highest level of care possible. The Legislature further  
2 finds that inspections are the most effective means of furthering  
3 this policy. It is not the intent of the Legislature by the amendment  
4 of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982  
5 to reduce in any way the resources available to the state department  
6 for inspections, but rather to provide the state department with the  
7 greatest flexibility to concentrate its resources where they can be  
8 most effective. It is the intent of the Legislature to create a survey  
9 process that includes state-based survey components and that  
10 determines compliance with federal and California requirements  
11 for certified long-term health care facilities. It is the further intent  
12 of the Legislature to execute this inspection in the form of a single  
13 survey process, to the extent that this is possible and permitted  
14 under federal law. The inability of the state to conduct a single  
15 survey in no way exempts the state from the requirement under  
16 this section that state-based components be inspected in long-term  
17 health care facilities as required by law.

18 ~~(b) (1) (A) Notwithstanding Section 1279 or any other~~  
19 ~~provision of law, without providing notice of these inspections,~~  
20 ~~the department, in addition to any inspections conducted pursuant~~  
21 ~~to complaints filed pursuant to Section 1419, shall conduct~~  
22 ~~inspections annually, except with regard to those facilities which~~  
23 ~~have no class "AA," class "A," or class "B" violations in the past~~  
24 ~~12 months. The state department shall also conduct inspections as~~  
25 ~~may be necessary to ensure the health, safety, and security of~~  
26 ~~patients in long-term health care facilities. Every facility shall be~~  
27 ~~inspected at least once every two years. The department shall vary~~  
28 ~~the cycle in which inspections of long-term health care facilities~~  
29 ~~are conducted to reduce the predictability of the inspections.~~

30 ~~(B) Inspections and investigations of long-term health care~~  
31 ~~facilities that are certified by the Medicare Program or the Medicaid~~  
32 ~~Program shall determine compliance with federal standards and~~  
33 ~~California statutes and regulations to the extent that California~~  
34 ~~statutes and regulations provide greater protection to residents, or~~  
35 ~~are more precise than federal standards, as determined by the~~  
36 ~~department. Notwithstanding any other provision of law, the~~  
37 ~~department may, without taking regulatory action pursuant to the~~  
38 ~~rulemaking provisions of the Administrative Procedure Act~~  
39 ~~(Chapter 3.5 (commencing with Section 11340) of Part 1 of~~  
40 ~~Division 3 of Title 2 of the Government Code), implement,~~

1 ~~interpret, or make specific this paragraph by means of an All~~  
2 ~~Facilities Letter (AFL) or similar instruction. Prior to issuing an~~  
3 ~~AFL or similar instruction, the department shall consult with~~  
4 ~~interested parties and shall inform the appropriate committees of~~  
5 ~~the Legislature. The department shall also post the AFL or similar~~  
6 ~~instruction on its Web site so that any person may observe which~~  
7 ~~California laws and regulations provide greater protection to its~~  
8 ~~residents or are more precise than federal standards. Nothing in~~  
9 ~~this subdivision is intended to change existing statutory or~~  
10 ~~regulatory requirements governing the care provided to long-term~~  
11 ~~health care facility residents.~~

12 ~~(C) In order to ensure maximum effectiveness of inspections~~  
13 ~~conducted pursuant to this article, the department shall identify all~~  
14 ~~state law standards for the staffing and operation of long-term~~  
15 ~~health care facilities. Costs of the additional survey and inspection~~  
16 ~~activities required by Chapter 895 of the Statutes of 2006 shall be~~  
17 ~~included as Licensing and Certification Program activities for the~~  
18 ~~purposes of calculating fees in accordance with Section 1266.~~

19 ~~(2) The state department shall submit to the federal Department~~  
20 ~~of Health and Human Services on or before July 1, 1985, for review~~  
21 ~~and approval, a request to implement a three-year pilot program~~  
22 ~~designed to lessen the predictability of the long-term health care~~  
23 ~~facility inspection process. Two components of the pilot program~~  
24 ~~shall be (A) the elimination of the present practice of entering into~~  
25 ~~a one-year certification agreement, and (B) the conduct of~~  
26 ~~segmented inspections of a sample of facilities with poor inspection~~  
27 ~~records, as defined by the state department. At the conclusion of~~  
28 ~~the pilot project, an analysis of both components shall be conducted~~  
29 ~~by the state department to determine effectiveness in reducing~~  
30 ~~inspection predictability and the respective cost benefits.~~  
31 ~~Implementation of this pilot project is contingent upon federal~~  
32 ~~approval.~~

33 ~~(e) Except as otherwise provided in subdivision (b), the state~~  
34 ~~department shall conduct unannounced direct patient care~~  
35 ~~inspections at least annually to inspect physician and surgeon~~  
36 ~~services, nursing services, pharmacy services, dietary services,~~  
37 ~~and activity programs of all the long-term health care facilities.~~  
38 ~~Facilities evidencing repeated serious problems in complying with~~  
39 ~~this chapter or a history of poor performance, or both, shall be~~  
40 ~~subject to periodic unannounced direct patient care inspections~~

1 during the inspection year. The direct patient care inspections shall  
2 assist the state department in the prioritization of its efforts to  
3 correct facility deficiencies.

4 (d) All long-term health care facilities shall report to the state  
5 department any changes in the nursing home administrator or the  
6 director of nursing services within 10 calendar days of the changes.

7 (e) Within 90 days after the receipt of notice of a change in the  
8 nursing home administrator or the director of nursing services, the  
9 state department may conduct an abbreviated inspection of the  
10 long-term health care facilities.

11 (f) If a change in a nursing home administrator occurs and the  
12 Board of Nursing Home Administrators notifies the state  
13 department that the new administrator is on probation or has had  
14 his or her license suspended within the previous three years, the  
15 state department shall conduct an abbreviated survey of the  
16 long-term health care facility employing that administrator within  
17 90 days of notification.