

Introduced by Senator CorbettFebruary 18, 2010

An act to amend Section 1250 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1164, as introduced, Corbett. Health facilities: congregate living health facilities: children.

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, congregate living health facilities. Existing law defines a congregate living health facility to be a residential home with a capacity, except as provided, of no more than 12 beds that provides inpatient care, including, but not limited to, medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social, and recreational services to persons with prescribed conditions, including, but not limited to, persons who have a diagnosis of terminal illness or a diagnosis of a life-threatening illness. A violation of provisions relating to the licensing and regulation of health facilities is a crime.

This bill would specify that this definition includes facilities that provide services to children who have a diagnosis of terminal illness or a diagnosis of a life-threatening illness. By changing the definition of a 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) Congregate living health facilities on occasion provide a
4 scope of pediatric palliative care services that, although allowed
5 under their license, are not typically provided in a coordinated way
6 at one site of service.

7 (b) For example, George Mark Children’s House is a
8 comprehensive pediatric palliative care organization licensed as
9 a congregate living health facility.

10 (c) Commercial and public payers are not accustomed to
11 reimbursing a congregate living health facility for the full scope
12 of care the congregate living health facility is providing to children
13 with complex medical conditions and their families. Thus,
14 negotiations are on a case-by-case basis and these facilities
15 repeatedly negotiate rates for the same patient on multiple stays.

16 (d) Therefore, an amendment is necessary to more adequately
17 define the scope of services provided by comprehensive pediatric
18 palliative care organizations in California.

19 (e) This act should also facilitate comprehensive pediatric
20 palliative care organizations to more fully participate in the
21 Medi-Cal waiver program directly and in coordination with other
22 participating providers.

23 SEC. 2. Section 1250 of the Health and Safety Code is amended
24 to read:

25 1250. As used in this chapter, “health facility” means any
26 facility, place, or building that is organized, maintained, and
27 operated for the diagnosis, care, prevention, and treatment of
28 human illness, physical or mental, including convalescence and
29 rehabilitation and including care during and after pregnancy, or
30 for any one or more of these purposes, for one or more persons,
31 to which the persons are admitted for a 24-hour stay or longer, and
32 includes the following types:

33 (a) “General acute care hospital” means a health facility having
34 a duly constituted governing body with overall administrative and
35 professional responsibility and an organized medical staff that

1 provides 24-hour inpatient care, including the following basic
2 services: medical, nursing, surgical, anesthesia, laboratory,
3 radiology, pharmacy, and dietary services. A general acute care
4 hospital may include more than one physical plant maintained and
5 operated on separate premises as provided in Section 1250.8. A
6 general acute care hospital that exclusively provides acute medical
7 rehabilitation center services, including at least physical therapy,
8 occupational therapy, and speech therapy, may provide for the
9 required surgical and anesthesia services through a contract with
10 another acute care hospital. In addition, a general acute care
11 hospital that, on July 1, 1983, provided required surgical and
12 anesthesia services through a contract or agreement with another
13 acute care hospital may continue to provide these surgical and
14 anesthesia services through a contract or agreement with an acute
15 care hospital. The general acute care hospital operated by the State
16 Department of Developmental Services at Agnews Developmental
17 Center may, until June 30, 2007, provide surgery and anesthesia
18 services through a contract or agreement with another acute care
19 hospital. Notwithstanding the requirements of this subdivision, a
20 general acute care hospital operated by the Department of
21 Corrections and Rehabilitation or the Department of Veterans
22 Affairs may provide surgery and anesthesia services during normal
23 weekday working hours, and not provide these services during
24 other hours of the weekday or on weekends or holidays, if the
25 general acute care hospital otherwise meets the requirements of
26 this section.

27 A “general acute care hospital” includes a “rural general acute
28 care hospital.” However, a “rural general acute care hospital” shall
29 not be required by the department to provide surgery and anesthesia
30 services. A “rural general acute care hospital” shall meet either of
31 the following conditions:

32 (1) The hospital meets criteria for designation within peer group
33 six or eight, as defined in the report entitled Hospital Peer Grouping
34 for Efficiency Comparison, dated December 20, 1982.

35 (2) The hospital meets the criteria for designation within peer
36 group five or seven, as defined in the report entitled Hospital Peer
37 Grouping for Efficiency Comparison, dated December 20, 1982,
38 and has no more than 76 acute care beds and is located in a census
39 dwelling place of 15,000 or less population according to the 1980
40 federal census.

1 (b) “Acute psychiatric hospital” means a health facility having
2 a duly constituted governing body with overall administrative and
3 professional responsibility and an organized medical staff that
4 provides 24-hour inpatient care for mentally disordered,
5 incompetent, or other patients referred to in Division 5
6 (commencing with Section 5000) or Division 6 (commencing with
7 Section 6000) of the Welfare and Institutions Code, including the
8 following basic services: medical, nursing, rehabilitative,
9 pharmacy, and dietary services.

10 (c) “Skilled nursing facility” means a health facility that provides
11 skilled nursing care and supportive care to patients whose primary
12 need is for availability of skilled nursing care on an extended basis.

13 (d) “Intermediate care facility” means a health facility that
14 provides inpatient care to ambulatory or nonambulatory patients
15 who have recurring need for skilled nursing supervision and need
16 supportive care, but who do not require availability of continuous
17 skilled nursing care.

18 (e) “Intermediate care facility/developmentally disabled
19 habilitative” means a facility with a capacity of 4 to 15 beds that
20 provides 24-hour personal care, habilitation, developmental, and
21 supportive health services to 15 or fewer persons with
22 developmental disabilities who have intermittent recurring needs
23 for nursing services, but have been certified by a physician and
24 surgeon as not requiring availability of continuous skilled nursing
25 care.

26 (f) “Special hospital” means a health facility having a duly
27 constituted governing body with overall administrative and
28 professional responsibility and an organized medical or dental staff
29 that provides inpatient or outpatient care in dentistry or maternity.

30 (g) “Intermediate care facility/developmentally disabled” means
31 a facility that provides 24-hour personal care, habilitation,
32 developmental, and supportive health services to persons with
33 developmental disabilities whose primary need is for
34 developmental services and who have a recurring but intermittent
35 need for skilled nursing services.

36 (h) “Intermediate care facility/developmentally
37 disabled-nursing” means a facility with a capacity of 4 to 15 beds
38 that provides 24-hour personal care, developmental services, and
39 nursing supervision for persons with developmental disabilities
40 who have intermittent recurring needs for skilled nursing care but

1 have been certified by a physician and surgeon as not requiring
2 continuous skilled nursing care. The facility shall serve medically
3 fragile persons with developmental disabilities or who demonstrate
4 significant developmental delay that may lead to a developmental
5 disability if not treated.

6 (i) (1) “Congregate living health facility” means a residential
7 home with a capacity, except as provided in paragraph (4), of no
8 more than 12 beds, that provides inpatient care, including the
9 following basic services: medical supervision, 24-hour skilled
10 nursing and supportive care, pharmacy, dietary, social, recreational,
11 and at least one type of service specified in paragraph (2). The
12 primary need of congregate living health facility residents shall
13 be for availability of skilled nursing care on a recurring,
14 intermittent, extended, or continuous basis. This care is generally
15 less intense than that provided in general acute care hospitals but
16 more intense than that provided in skilled nursing facilities.

17 (2) Congregate living health facilities shall provide one of the
18 following services:

19 (A) Services for persons who are mentally alert, persons with
20 physical disabilities, who may be ventilator dependent.

21 (B) Services for persons, *including, but not limited to, children*,
22 who have a diagnosis of terminal illness, a diagnosis of a
23 life-threatening illness, or both. Terminal illness means the
24 individual has a life expectancy of six months or less as stated in
25 writing by his or her attending physician and surgeon. A
26 “life-threatening illness” means the individual has an illness that
27 can lead to a possibility of a termination of life within five years
28 or less as stated in writing by his or her attending physician and
29 surgeon.

30 (C) Services for persons who are catastrophically and severely
31 disabled. A person who is catastrophically and severely disabled
32 means a person whose origin of disability was acquired through
33 trauma or nondegenerative neurologic illness, for whom it has
34 been determined that active rehabilitation would be beneficial and
35 to whom these services are being provided. Services offered by a
36 congregate living health facility to a person who is catastrophically
37 disabled shall include, but not be limited to, speech, physical, and
38 occupational therapy.

1 (3) A congregate living health facility license shall specify which
2 of the types of persons described in paragraph (2) to whom a
3 facility is licensed to provide services.

4 (4) (A) A facility operated by a city and county for the purposes
5 of delivering services under this section may have a capacity of
6 59 beds.

7 (B) A congregate living health facility not operated by a city
8 and county servicing persons who are terminally ill, persons who
9 have been diagnosed with a life-threatening illness, or both, that
10 is located in a county with a population of 500,000 or more persons
11 may have not more than 25 beds for the purpose of serving persons
12 who are terminally ill.

13 (C) A congregate living health facility not operated by a city
14 and county serving persons who are catastrophically and severely
15 disabled, as defined in subparagraph (C) of paragraph (2) that is
16 located in a county of 500,000 or more persons may have not more
17 than 12 beds for the purpose of serving persons who are
18 catastrophically and severely disabled.

19 (5) A congregate living health facility shall have a
20 noninstitutional, homelike environment.

21 (j) (1) “Correctional treatment center” means a health facility
22 operated by the Department of Corrections and Rehabilitation, the
23 Department of Corrections and Rehabilitation, Division of Juvenile
24 Facilities, or a county, city, or city and county law enforcement
25 agency that, as determined by the state department, provides
26 inpatient health services to that portion of the inmate population
27 who do not require a general acute care level of basic services.
28 This definition shall not apply to those areas of a law enforcement
29 facility that houses inmates or wards that may be receiving
30 outpatient services and are housed separately for reasons of
31 improved access to health care, security, and protection. The health
32 services provided by a correctional treatment center shall include,
33 but are not limited to, all of the following basic services: physician
34 and surgeon, psychiatrist, psychologist, nursing, pharmacy, and
35 dietary. A correctional treatment center may provide the following
36 services: laboratory, radiology, perinatal, and any other services
37 approved by the state department.

38 (2) Outpatient surgical care with anesthesia may be provided,
39 if the correctional treatment center meets the same requirements
40 as a surgical clinic licensed pursuant to Section 1204, with the

1 exception of the requirement that patients remain less than 24
2 hours.

3 (3) Correctional treatment centers shall maintain written service
4 agreements with general acute care hospitals to provide for those
5 inmate physical health needs that cannot be met by the correctional
6 treatment center.

7 (4) Physician and surgeon services shall be readily available in
8 a correctional treatment center on a 24-hour basis.

9 (5) It is not the intent of the Legislature to have a correctional
10 treatment center supplant the general acute care hospitals at the
11 California Medical Facility, the California Men's Colony, and the
12 California Institution for Men. This subdivision shall not be
13 construed to prohibit the Department of Corrections and
14 Rehabilitation from obtaining a correctional treatment center
15 license at these sites.

16 (k) "Nursing facility" means a health facility licensed pursuant
17 to this chapter that is certified to participate as a provider of care
18 either as a skilled nursing facility in the federal Medicare Program
19 under Title XVIII of the federal Social Security Act or as a nursing
20 facility in the federal Medicaid Program under Title XIX of the
21 federal Social Security Act, or as both.

22 (l) Regulations defining a correctional treatment center described
23 in subdivision (j) that is operated by a county, city, or city and
24 county, the Department of Corrections and Rehabilitation, or the
25 Department of Corrections and Rehabilitation, Division of Juvenile
26 Facilities, shall not become effective prior to, or if effective, shall
27 be inoperative until January 1, 1996, and until that time these
28 correctional facilities are exempt from any licensing requirements.

29 (m) "Intermediate care facility/developmentally
30 disabled-continuous nursing (ICF/DD-CN)" means a homelike
31 facility with a capacity of four to eight, inclusive, beds that
32 provides 24-hour personal care, developmental services, and
33 nursing supervision for persons with developmental disabilities
34 who have continuous needs for skilled nursing care and have been
35 certified by a physician and surgeon as warranting continuous
36 skilled nursing care. The facility shall serve medically fragile
37 persons who have developmental disabilities or demonstrate
38 significant developmental delay that may lead to a developmental
39 disability if not treated. ICF/DD-CN facilities shall be subject to
40 licensure under this chapter upon adoption of licensing regulations

1 in accordance with Section 1275.3. A facility providing continuous
2 skilled nursing services to persons with developmental disabilities
3 pursuant to Section 14132.20 or 14495.10 of the Welfare and
4 Institutions Code shall apply for licensure under this subdivision
5 within 90 days after the regulations become effective, and may
6 continue to operate pursuant to those sections until its licensure
7 application is either approved or denied.

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