

AMENDED IN ASSEMBLY AUGUST 24, 2012
AMENDED IN ASSEMBLY AUGUST 7, 2012
AMENDED IN ASSEMBLY JUNE 19, 2012
AMENDED IN SENATE JANUARY 23, 2012
AMENDED IN SENATE JANUARY 4, 2012
AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 135

Introduced by Senator Hernandez
(Principal coauthor: Assembly Member V. Manuel Pérez)
(Coauthor: Senator Strickland)

January 31, 2011

An act to amend Sections 1250, 1250.1, 1266, 1599, 1599.1, 1599.4, 1746, ~~and 1795~~, 128755, and 129725 of, ~~and to add Sections 1749.1 and 1749.3 to,~~ and to add Article 10.6 (commencing with Section 1339.40) to Chapter 2 of Division 2 to, the Health and Safety Code, relating to hospice care.

LEGISLATIVE COUNSEL'S DIGEST

SB 135, as amended, Hernandez. Hospice facilities.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including skilled nursing facilities, intermediate care facilities, and congregate living health facilities. Under existing law, the department also licenses and regulates hospices and

the provision of hospice services. Violation of these provisions is a crime.

This bill would create a new health facility licensing category for, and would require the department to develop regulations governing licensure of, hospice facilities, as defined. It would impose various requirements on these facilities.

~~The bill would provide that the department may use specified federal regulations as the basis for hospice facility licensure until the department adopts regulations.~~

This bill would exclude a freestanding building used, or designed to be used, as a congregate living health facility or as a hospice facility from the definition of a hospital building for purposes of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

Because this bill would create a new crime, it would impose a state-mandated local program.

This bill would incorporate additional changes in Section 1250 of the Health and Safety Code, proposed by SB 1228 to be operative only if SB 1228 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last. The bill would also incorporate additional changes in Section 1266 of the Health and Safety Code, proposed by AB 1710 to be operative only if AB 1710 and this bill are both chaptered and become effective on or before January 1, 2013, and this bill is chaptered last.

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) Hospice is a special type of health care service designed to
- 4 provide palliative care and to alleviate the physical, emotional,
- 5 social, and spiritual discomforts of an individual who is
- 6 experiencing the last phases of life due to terminal illness.

1 (b) Hospice services provide supportive care to the primary
2 caregiver and family of the patient.

3 (c) Hospice services are provided primarily in the home, but
4 can also be provided in residential care or in health facility inpatient
5 settings.

6 (d) Persons who do not have family members or caregivers who
7 are able to provide care in the home should be able to have care
8 provided in a homelike environment, rather than in an institutional
9 setting, if that is their preference.

10 (e) Permitting the establishment of licensed hospice facilities
11 provides additional care and treatment options for persons who
12 are at the end of life.

13 (f) The establishment of licensed hospice facilities is permitted
14 under federal law and by many other states.

15 (g) Permitting the establishment of licensed hospice facilities
16 is consistent with federal legal affirmations of the right of an
17 individual to refuse life-sustaining treatment and that each person's
18 preferences about his or her end-of-life care should be considered.

19 (h) Permitting the establishment of licensed hospice facilities
20 is also consistent with the decision of the United States Supreme
21 Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581, which
22 held that persons with disabilities have the right to live in the most
23 integrated setting possible with appropriate access to care and
24 choice of community-based services and placement options.

25 (i) It is the intent of the Legislature to permit the licensure of
26 hospice inpatient facilities in order to improve access to care, to
27 provide additional care options, and to provide for a homelike
28 environment within which to provide care and treatment for persons
29 who are experiencing the last phases of life.

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

32 1250. As used in this chapter, "health facility" means any
33 facility, place, or building that is organized, maintained, and
34 operated for the diagnosis, care, prevention, and treatment of
35 human illness, physical or mental, including convalescence and
36 rehabilitation and including care during and after pregnancy, or
37 for any one or more of these purposes, for one or more persons,
38 to which the persons are admitted for a 24-hour stay or longer, and
39 includes the following types:

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

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

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

38 (2) The hospital meets the criteria for designation within peer
39 group five or seven, as defined in the report entitled Hospital Peer
40 Grouping for Efficiency Comparison, dated December 20, 1982,

1 and has no more than 76 acute care beds and is located in a census
2 dwelling place of 15,000 or less population according to the 1980
3 federal census.

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

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

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

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

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

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

39 (h) “Intermediate care facility/developmentally
40 disabled-nursing” means a facility with a capacity of 4 to 15 beds

1 that provides 24-hour personal care, developmental services, and
2 nursing supervision for persons with developmental disabilities
3 who have intermittent recurring needs for skilled nursing care but
4 have been certified by a physician and surgeon as not requiring
5 continuous skilled nursing care. The facility shall serve medically
6 fragile persons with developmental disabilities or who demonstrate
7 significant developmental delay that may lead to a developmental
8 disability if not treated.

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

20 (2) Congregate living health facilities shall provide one of the
21 following services:

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

24 (B) Services for persons who have a diagnosis of terminal
25 illness, a diagnosis of a life-threatening illness, or both. Terminal
26 illness means the individual has a life expectancy of six months
27 or less as stated in writing by his or her attending physician and
28 surgeon. A “life-threatening illness” means the individual has an
29 illness that can lead to a possibility of a termination of life within
30 five years or less as stated in writing by his or her attending
31 physician and surgeon.

32 (C) Services for persons who are catastrophically and severely
33 disabled. A person who is catastrophically and severely disabled
34 means a person whose origin of disability was acquired through
35 trauma or nondegenerative neurologic illness, for whom it has
36 been determined that active rehabilitation would be beneficial and
37 to whom these services are being provided. Services offered by a
38 congregate living health facility to a person who is catastrophically
39 disabled shall include, but not be limited to, speech, physical, and
40 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 or located in a county of the 16th class pursuant to Section 28020
12 of the Government Code, may have not more than 25 beds for the
13 purpose of serving persons who are terminally ill.

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

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

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

39 (2) Outpatient surgical care with anesthesia may be provided,
40 if the correctional treatment center meets the same requirements

1 as a surgical clinic licensed pursuant to Section 1204, with the
2 exception of the requirement that patients remain less than 24
3 hours.

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

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

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

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

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

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

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

9 (n) “Hospice facility” means a *health facility licensed pursuant*
 10 *to this chapter*, with a capacity of no more than 24 beds that is
 11 ~~licensed by the department and operated by a licensed and certified~~
 12 ~~provider of hospice services. Hospice services include, but are not~~
 13 ~~limited to, routine care, continuous care, inpatient respite care,~~
 14 ~~general patient care, and the hospice facility services described in~~
 15 ~~Section 1749.3 provides hospice services. Hospice services include,~~
 16 ~~but are not limited to, routine care, continuous care, inpatient~~
 17 ~~respite care, and inpatient hospice care as defined in subdivision~~
 18 ~~(d) of Section 1339.40, and is operated by a provider of hospice~~
 19 ~~services that is licensed pursuant to Section 1751 and certified as~~
 20 ~~a hospice pursuant to Part 418 of Title 42 of the Code of Federal~~
 21 ~~Regulations.~~

22 ~~SEC. 3. Section 1250.1 of the Health and Safety Code is~~
 23 ~~amended to read:~~

24 ~~1250.1. (a) The department shall adopt regulations that define~~
 25 ~~all of the following bed classifications for health facilities:~~

- 26 ~~(1) General acute care.~~
- 27 ~~(2) Skilled nursing.~~
- 28 ~~(3) Intermediate care developmental disabilities.~~
- 29 ~~(4) Intermediate care—other.~~
- 30 ~~(5) Acute psychiatric.~~
- 31 ~~(6) Specialized care, with respect to special hospitals only.~~
- 32 ~~(7) Chemical dependency recovery.~~
- 33 ~~(8) Intermediate care facility/developmentally disabled~~
 34 ~~habilitative.~~
- 35 ~~(9) Intermediate care facility/developmentally disabled nursing.~~
- 36 ~~(10) Congregate living health facility.~~
- 37 ~~(11) Pediatric day health and respite care facility, as defined in~~
 38 ~~Section 1760.2.~~
- 39 ~~(12) Correctional treatment center. For correctional treatment~~
 40 ~~centers that provide psychiatric and psychological services~~

1 provided by county mental health agencies in local detention
2 facilities, the State Department of Mental Health shall adopt
3 regulations specifying acute and nonacute levels of 24-hour care.
4 Licensed inpatient beds in a correctional treatment center shall be
5 used only for the purpose of providing health services.

6 ~~(13) Hospice facility.~~

7 ~~(b) Except as provided in Section 1253.1, beds classified as~~
8 ~~intermediate care beds, on September 27, 1978, shall be reclassified~~
9 ~~by the department as intermediate care—other. This reclassification~~
10 ~~shall not constitute a “project” within the meaning of Section~~
11 ~~127170 and shall not be subject to any requirement for a certificate~~
12 ~~of need under Chapter 1 (commencing with Section 127125) of~~
13 ~~Part 2 of Division 107, and regulations of the department governing~~
14 ~~intermediate care prior to the effective date shall continue to be~~
15 ~~applicable to the intermediate care—other classification unless~~
16 ~~and until amended or repealed by the department.~~

17 *SEC. 2.5. Section 1250 of the Health and Safety Code is*
18 *amended to read:*

19 1250. As used in this chapter, “health facility” means any
20 facility, place, or building that is organized, maintained, and
21 operated for the diagnosis, care, prevention, and treatment of
22 human illness, physical or mental, including convalescence and
23 rehabilitation and including care during and after pregnancy, or
24 for any one or more of these purposes, for one or more persons,
25 to which the persons are admitted for a 24-hour stay or longer, and
26 includes the following types:

27 (a) “General acute care hospital” means a health facility having
28 a duly constituted governing body with overall administrative and
29 professional responsibility and an organized medical staff that
30 provides 24-hour inpatient care, including the following basic
31 services: medical, nursing, surgical, anesthesia, laboratory,
32 radiology, pharmacy, and dietary services. A general acute care
33 hospital may include more than one physical plant maintained and
34 operated on separate premises as provided in Section 1250.8. A
35 general acute care hospital that exclusively provides acute medical
36 rehabilitation center services, including at least physical therapy,
37 occupational therapy, and speech therapy, may provide for the
38 required surgical and anesthesia services through a contract with
39 another acute care hospital. In addition, a general acute care
40 hospital that, on July 1, 1983, provided required surgical and

1 anesthesia services through a contract or agreement with another
2 acute care hospital may continue to provide these surgical and
3 anesthesia services through a contract or agreement with an acute
4 care hospital. The general acute care hospital operated by the State
5 Department of Developmental Services at Agnews Developmental
6 Center may, until June 30, 2007, provide surgery and anesthesia
7 services through a contract or agreement with another acute care
8 hospital. Notwithstanding the requirements of this subdivision, a
9 general acute care hospital operated by the Department of
10 Corrections and Rehabilitation or the Department of Veterans
11 Affairs may provide surgery and anesthesia services during normal
12 weekday working hours, and not provide these services during
13 other hours of the weekday or on weekends or holidays, if the
14 general acute care hospital otherwise meets the requirements of
15 this section.

16 A “general acute care hospital” includes a “rural general acute
17 care hospital.” However, a “rural general acute care hospital” shall
18 not be required by the department to provide surgery and anesthesia
19 services. A “rural general acute care hospital” shall meet either of
20 the following conditions:

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

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

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

39 (c) (1) “Skilled nursing facility” means a health facility that
40 provides skilled nursing care and supportive care to patients whose

1 primary need is for availability of skilled nursing care on an
2 extended basis.

3 (2) “Skilled nursing facility” includes a “small house skilled
4 nursing facility (SHSNF),” as defined in Section 1323.5.

5 (d) “Intermediate care facility” means a health facility that
6 provides inpatient care to ambulatory or nonambulatory patients
7 who have recurring need for skilled nursing supervision and need
8 supportive care, but who do not require availability of continuous
9 skilled nursing care.

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

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

22 (g) “Intermediate care facility/developmentally disabled” means
23 a facility that provides 24-hour personal care, habilitation,
24 developmental, and supportive health services to persons with
25 developmental disabilities whose primary need is for
26 developmental services and who have a recurring but intermittent
27 need for skilled nursing services.

28 (h) “Intermediate care facility/developmentally
29 disabled-nursing” means a facility with a capacity of 4 to 15 beds
30 that provides 24-hour personal care, developmental services, and
31 nursing supervision for persons with developmental disabilities
32 who have intermittent recurring needs for skilled nursing care but
33 have been certified by a physician and surgeon as not requiring
34 continuous skilled nursing care. The facility shall serve medically
35 fragile persons with developmental disabilities or who demonstrate
36 significant developmental delay that may lead to a developmental
37 disability if not treated.

38 (i) (1) “Congregate living health facility” means a residential
39 home with a capacity, except as provided in paragraph (4), of no
40 more than 12 beds, that provides inpatient care, including the

1 following basic services: medical supervision, 24-hour skilled
2 nursing and supportive care, pharmacy, dietary, social, recreational,
3 and at least one type of service specified in paragraph (2). The
4 primary need of congregate living health facility residents shall
5 be for availability of skilled nursing care on a recurring,
6 intermittent, extended, or continuous basis. This care is generally
7 less intense than that provided in general acute care hospitals but
8 more intense than that provided in skilled nursing facilities.

9 (2) Congregate living health facilities shall provide one of the
10 following services:

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

13 (B) Services for persons who have a diagnosis of terminal
14 illness, a diagnosis of a life-threatening illness, or both. Terminal
15 illness means the individual has a life expectancy of six months
16 or less as stated in writing by his or her attending physician and
17 surgeon. A “life-threatening illness” means the individual has an
18 illness that can lead to a possibility of a termination of life within
19 five years or less as stated in writing by his or her attending
20 physician and surgeon.

21 (C) Services for persons who are catastrophically and severely
22 disabled. A person who is catastrophically and severely disabled
23 means a person whose origin of disability was acquired through
24 trauma or nondegenerative neurologic illness, for whom it has
25 been determined that active rehabilitation would be beneficial and
26 to whom these services are being provided. Services offered by a
27 congregate living health facility to a person who is catastrophically
28 disabled shall include, but not be limited to, speech, physical, and
29 occupational therapy.

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

33 (4) (A) A facility operated by a city and county for the purposes
34 of delivering services under this section may have a capacity of
35 59 beds.

36 (B) A congregate living health facility not operated by a city
37 and county servicing persons who are terminally ill, persons who
38 have been diagnosed with a life-threatening illness, or both, that
39 is located in a county with a population of 500,000 or more persons,
40 or located in a county of the 16th class pursuant to Section 28020

1 of the Government Code, may have not more than 25 beds for the
2 purpose of serving persons who are terminally ill.

3 (C) A congregate living health facility not operated by a city
4 and county serving persons who are catastrophically and severely
5 disabled, as defined in subparagraph (C) of paragraph (2) that is
6 located in a county of 500,000 or more persons may have not more
7 than 12 beds for the purpose of serving persons who are
8 catastrophically and severely disabled.

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

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

28 (2) Outpatient surgical care with anesthesia may be provided,
29 if the correctional treatment center meets the same requirements
30 as a surgical clinic licensed pursuant to Section 1204, with the
31 exception of the requirement that patients remain less than 24
32 hours.

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

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

39 (5) It is not the intent of the Legislature to have a correctional
40 treatment center supplant the general acute care hospitals at the

1 California Medical Facility, the California Men’s Colony, and the
2 California Institution for Men. This subdivision shall not be
3 construed to prohibit the Department of Corrections and
4 Rehabilitation from obtaining a correctional treatment center
5 license at these sites.

6 (k) “Nursing facility” means a health facility licensed pursuant
7 to this chapter that is certified to participate as a provider of care
8 either as a skilled nursing facility in the federal Medicare Program
9 under Title XVIII of the federal Social Security Act (*42 U.S.C.*
10 *Sec. 1395 et seq.*) or as a nursing facility in the federal Medicaid
11 Program under Title XIX of the federal Social Security Act, *Act*
12 (*42 U.S.C. Sec. 1396 et seq.*), or as both.

13 (l) Regulations defining a correctional treatment center described
14 in subdivision (j) that is operated by a county, city, or city and
15 county, the Department of Corrections and Rehabilitation, or the
16 Department of Corrections and Rehabilitation, Division of Juvenile
17 Facilities, shall not become effective prior to, or if effective, shall
18 be inoperative until January 1, 1996, and until that time these
19 correctional facilities are exempt from any licensing requirements.

20 (m) “Intermediate care facility/developmentally
21 disabled-continuous nursing (ICF/DD-CN)” means a homelike
22 facility with a capacity of four to eight, inclusive, beds that
23 provides 24-hour personal care, developmental services, and
24 nursing supervision for persons with developmental disabilities
25 who have continuous needs for skilled nursing care and have been
26 certified by a physician and surgeon as warranting continuous
27 skilled nursing care. The facility shall serve medically fragile
28 persons who have developmental disabilities or demonstrate
29 significant developmental delay that may lead to a developmental
30 disability if not treated. ICF/DD-CN facilities shall be subject to
31 licensure under this chapter upon adoption of licensing regulations
32 in accordance with Section 1275.3. A facility providing continuous
33 skilled nursing services to persons with developmental disabilities
34 pursuant to Section 14132.20 or 14495.10 of the Welfare and
35 Institutions Code shall apply for licensure under this subdivision
36 within 90 days after the regulations become effective, and may
37 continue to operate pursuant to those sections until its licensure
38 application is either approved or denied.

39 (n) “Hospice facility” means a health facility licensed pursuant
40 to this chapter with a capacity of no more than 24 beds that

1 *provides hospice services. Hospice services include, but are not*
 2 *limited to, routine care, continuous care, inpatient respite care,*
 3 *and inpatient hospice care as defined in subdivision (d) of Section*
 4 *1339.40, and is operated by a provider of hospice services that is*
 5 *licensed pursuant to Section 1751 and certified as a hospice*
 6 *pursuant to Part 418 of Title 42 of the Code of Federal*
 7 *Regulations.*

8 *SEC. 3. Section 1250.1 of the Health and Safety Code is*
 9 *amended to read:*

10 1250.1. (a) The department shall adopt regulations that define
 11 all of the following bed classifications for health facilities:

- 12 (1) General acute care.
- 13 (2) Skilled nursing.
- 14 (3) Intermediate care—developmental disabilities.
- 15 (4) Intermediate care—other.
- 16 (5) Acute psychiatric.
- 17 (6) Specialized care, with respect to special hospitals only.
- 18 (7) Chemical dependency recovery.
- 19 (8) Intermediate care facility/developmentally disabled
- 20 habilitative.
- 21 (9) Intermediate care facility/developmentally disabled nursing.
- 22 (10) Congregate living health facility.
- 23 (11) Pediatric day health and respite care facility, as defined in
- 24 Section 1760.2.
- 25 (12) Correctional treatment center. For correctional treatment
- 26 centers that provide psychiatric and psychological services
- 27 provided by county mental health agencies in local detention
- 28 facilities, the State Department of State Hospitals shall adopt
- 29 regulations specifying acute and nonacute levels of 24-hour care.
- 30 Licensed inpatient beds in a correctional treatment center shall be
- 31 used only for the purpose of providing health services.

32 *(13) Hospice facility.*

33 (b) Except as provided in Section 1253.1, beds classified as
 34 intermediate care beds, on September 27, 1978, shall be reclassified
 35 by the department as intermediate care—other. This reclassification
 36 shall not constitute a “project” within the meaning of Section
 37 127170 and shall not be subject to any requirement for a certificate
 38 of need under Chapter 1 (commencing with Section 127125) of
 39 Part 2 of Division 107, and regulations of the department governing
 40 intermediate care prior to the effective date shall continue to be

1 applicable to the intermediate care—other classification unless
2 and until amended or repealed by the department.

3 SEC. 4. Section 1266 of the Health and Safety Code is amended
4 to read:

5 1266. (a) The Licensing and Certification Division shall be
6 supported entirely by federal funds and special funds by no earlier
7 than the beginning of the 2009–10 fiscal year unless otherwise
8 specified in statute, or unless funds are specifically appropriated
9 from the General Fund in the annual Budget Act or other enacted
10 legislation. For the 2007–08 fiscal year, General Fund support
11 shall be provided to offset licensing and certification fees in an
12 amount of not less than two million seven hundred eighty-two
13 thousand dollars (\$2,782,000).

14 (b) (1) The Licensing and Certification Program fees for the
15 2006–07 fiscal year shall be as follows:

Type of Facility	Fee	
General Acute Care Hospitals	\$ 134.10	per bed
Acute Psychiatric Hospitals	\$ 134.10	per bed
Special Hospitals	\$ 134.10	per bed
Chemical Dependency Recovery Hospitals	\$ 123.52	per bed
Skilled Nursing Facilities	\$ 202.96	per bed
Intermediate Care Facilities	\$ 202.96	per bed
Intermediate Care Facilities - Developmentally Disabled	\$ 592.29	per bed
Intermediate Care Facilities - Developmentally Disabled - Habilitative	\$1,000.00	per facility
Intermediate Care Facilities - Developmentally Disabled - Nursing	\$1,000.00	per facility
Home Health Agencies	\$2,700.00	per facility
Referral Agencies	\$5,537.71	per facility
Adult Day Health Centers	\$4,650.02	per facility
Congregate Living Health Facilities	\$ 202.96	per bed
Psychology Clinics	\$ 600.00	per facility
Primary Clinics - Community and Free	\$ 600.00	per facility
Specialty Clinics - Rehab Clinics (For profit)	\$2,974.43	per facility
(Nonprofit)	\$ 500.00	per facility
Specialty Clinics - Surgical and Chronic	\$1,500.00	per facility
Dialysis Clinics	\$1,500.00	per facility

1	Pediatric Day Health/Respite Care	\$ 142.43	per bed
2	Alternative Birthing Centers	\$2,437.86	per facility
3	Hospice		per facility
4		\$1,000.00	provider
5	Correctional Treatment Centers	\$ 590.39	per bed

6
 7 (2) (A) In the first year of licensure for intermediate care
 8 facility/developmentally disabled-continuous nursing (ICF/DD-CN)
 9 facilities, the licensure fee for those facilities shall be equivalent
 10 to the licensure fee for intermediate care facility/developmentally
 11 disabled-nursing facilities during the same year. Thereafter, the
 12 licensure fee for ICF/DD-CN facilities shall be established pursuant
 13 to the same procedures described in ~~subdivisions (c) and (d)~~ *this*
 14 *section*.

15 (B) In the first year of licensure for hospice facilities, the
 16 licensure fee shall be equivalent to the licensure fee for congregate
 17 living health facilities during the same year. Thereafter, the
 18 licensure fee for hospice facilities shall be established pursuant to
 19 the same procedures described in this section.

20 (c) Commencing February 1, 2007, and every February 1
 21 thereafter, the department shall publish a list of estimated fees
 22 pursuant to this section. The calculation of estimated fees and the
 23 publication of the report and list of estimated fees shall not be
 24 subject to the rulemaking requirements of Chapter 3.5
 25 (commencing with Section 11340) of Part 1 of Division 3 of Title
 26 2 of the Government Code.

27 (d) By February 1 of each year, the department shall prepare
 28 the following reports and shall make those reports, and the list of
 29 estimated fees required to be published pursuant to subdivision
 30 (c), available to the public by submitting them to the Legislature
 31 and posting them on the department’s Internet Web site:

32 (1) The department shall prepare a report of all costs for
 33 activities of the Licensing and Certification Program. At a
 34 minimum, this report shall include a narrative of all baseline
 35 adjustments and their calculations, a description of how each
 36 category of facility was calculated, descriptions of assumptions
 37 used in any calculations, and shall recommend Licensing and
 38 Certification Program fees in accordance with the following:

39 (A) Projected workload and costs shall be grouped for each fee
 40 category, including workload costs for facility categories that have

1 been established by statute and for which licensing regulations
2 and procedures are under development.

3 (B) Cost estimates, and the estimated fees, shall be based on
4 the appropriation amounts in the Governor’s proposed budget for
5 the next fiscal year, with and without policy adjustments to the fee
6 methodology.

7 (C) The allocation of program, operational, and administrative
8 overhead, and indirect costs to fee categories shall be based on
9 generally accepted cost allocation methods. Significant items of
10 costs shall be directly charged to fee categories if the expenses can
11 be reasonably identified to the fee category that caused them.
12 Indirect and overhead costs shall be allocated to all fee categories
13 using a generally accepted cost allocation method.

14 (D) The amount of federal funds and General Fund moneys to
15 be received in the budget year shall be estimated and allocated to
16 each fee category based upon an appropriate metric.

17 (E) The fee for each category shall be determined by dividing
18 the aggregate state share of all costs for the Licensing and
19 Certification Program by the appropriate metric for the category
20 of licensure. Amounts actually received for new licensure
21 applications, including change of ownership applications, and late
22 payment penalties, pursuant to Section 1266.5, during each fiscal
23 year shall be calculated and 95 percent shall be applied to the
24 appropriate fee categories in determining Licensing and
25 Certification Program fees for the second fiscal year following
26 receipt of those funds. The remaining 5 percent shall be retained
27 in the fund as a reserve until appropriated.

28 (2) (A) The department shall prepare a staffing and systems
29 analysis to ensure efficient and effective utilization of fees
30 collected, proper allocation of departmental resources to licensing
31 and certification activities, survey schedules, complaint
32 investigations, enforcement and appeal activities, data collection
33 and dissemination, surveyor training, and policy development.

34 (B) The analysis under this paragraph shall be made available
35 to interested persons and shall include all of the following:

36 (i) The number of surveyors and administrative support
37 personnel devoted to the licensing and certification of health care
38 facilities.

39 (ii) The percentage of time devoted to licensing and certification
40 activities for the various types of health facilities.

- 1 (iii) The number of facilities receiving full surveys and the
2 frequency and number of followup visits.
- 3 (iv) The number and timeliness of complaint investigations.
- 4 (v) Data on deficiencies and citations issued, and numbers of
5 citation review conferences and arbitration hearings.
- 6 (vi) Other applicable activities of the licensing and certification
7 division.
- 8 (e) (1) The department shall adjust the list of estimated fees
9 published pursuant to subdivision (c) if the annual Budget Act or
10 other enacted legislation includes an appropriation that differs
11 from those proposed in the Governor’s proposed budget for that
12 fiscal year.
- 13 (2) The department shall publish a final fee list, with an
14 explanation of any adjustment, by the issuance of an all facilities
15 letter, by posting the list on the department’s Internet Web site,
16 and by including the final fee list as part of the licensing application
17 package, within 14 days of the enactment of the annual Budget
18 Act. The adjustment of fees and the publication of the final fee list
19 shall not be subject to the rulemaking requirements of Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code.
- 22 (f) (1) Fees shall not be assessed or collected pursuant to this
23 section from any state department, authority, bureau, commission,
24 or officer, unless federal financial participation would become
25 available by doing so and an appropriation is included in the annual
26 Budget Act for that state department, authority, bureau,
27 commission, or officer for this purpose. Fees shall not be assessed
28 or collected pursuant to this section from any clinic that is certified
29 only by the federal government and is exempt from licensure under
30 Section 1206, unless federal financial participation would become
31 available by doing so.
- 32 (2) For the 2006–07 state fiscal year, a fee shall not be assessed
33 or collected pursuant to this section from any general acute care
34 hospital owned by a health care district with 100 beds or less.
- 35 (g) The Licensing and Certification Program may change annual
36 license expiration renewal dates to provide for efficiencies in
37 operational processes or to provide for sufficient cashflow to pay
38 for expenditures. If an annual license expiration date is changed,
39 the renewal fee shall be prorated accordingly. Facilities shall be

1 provided with a 60-day notice of any change in their annual license
2 renewal date.

3 *SEC. 4.5. Section 1266 of the Health and Safety Code is*
4 *amended to read:*

5 1266. (a) The Licensing and Certification Division shall be
6 supported entirely by federal funds and special funds by no earlier
7 than the beginning of the 2009–10 fiscal year unless otherwise
8 specified in statute, or unless funds are specifically appropriated
9 from the General Fund in the annual Budget Act or other enacted
10 legislation. For the 2007–08 fiscal year, General Fund support
11 shall be provided to offset licensing and certification fees in an
12 amount of not less than two million seven hundred eighty-two
13 thousand dollars (\$2,782,000).

14 (b) (1) The Licensing and Certification Program fees for the
15 2006–07 fiscal year shall be as follows:

Type of Facility	-Fee	
	<i>Fee</i>	
19 General Acute Care Hospitals	\$ 134.10	per bed
20 Acute Psychiatric Hospitals	\$ 134.10	per bed
21 Special Hospitals	\$ 134.10	per bed
22 Chemical Dependency Recovery Hospitals	\$ 123.52	per bed
23 Skilled Nursing Facilities	\$ 202.96	per bed
24 Intermediate Care Facilities	\$ 202.96	per bed
25 Intermediate Care Facilities— Developmentally		
26 Disabled	\$ 592.29	per bed
27 Intermediate Care Facilities— Developmentally		
28 Disabled—Habilitative	\$1,000.00	per facility
29 Intermediate Care Facilities— Developmentally		
30 Disabled—Nursing	\$1,000.00	per facility
31 Home Health Agencies	\$2,700.00	per facility
32 Referral Agencies	\$5,537.71	per facility
33 Adult Day Health Centers	\$4,650.02	per facility
34 Congregate Living Health Facilities	\$ 202.96	per bed
35 Psychology Clinics	\$ 600.00	per facility
36 Primary Clinics— Community and Free	\$ 600.00	per facility
37 Specialty Clinics— Rehab Clinics		
38 (For profit)	\$2,974.43	per facility
39 (Nonprofit)	\$ 500.00	per facility
40 Specialty Clinics— Surgical and Chronic	\$1,500.00	per facility

1	Dialysis Clinics	\$1,500.00	per facility
2	Pediatric Day Health/Respite Care	\$ 142.43	per bed
3	Alternative Birthing Centers	\$2,437.86	per facility
4	Hospice		per-facility
5		\$1,000.00	provider
6	Correctional Treatment Centers	\$ 590.39	per bed

7
8 (2) (A) In the first year of licensure for intermediate care
9 facility/developmentally disabled-continuous nursing (ICF/DD-CN)
10 facilities, the licensure fee for those facilities shall be equivalent
11 to the licensure fee for intermediate care facility/developmentally
12 disabled-nursing facilities during the same year. Thereafter, the
13 licensure fee for ICF/DD-CN facilities shall be established pursuant
14 to ~~subdivisions (c) and (d)~~ *the same procedures described in this*
15 *section.*

16 (B) *In the first year of licensure for hospice facilities, the*
17 *licensure fee shall be equivalent to the licensure fee for congregate*
18 *living health facilities during the same year. Thereafter, the*
19 *licensure fee for hospice facilities shall be established pursuant*
20 *to the same procedures described in this section.*

21 (c) Commencing February 1, 2007, and every February 1
22 thereafter, the department shall publish a list of estimated fees
23 pursuant to this section. The calculation of estimated fees and the
24 publication of the report and list of estimated fees shall not be
25 subject to the rulemaking requirements of Chapter 3.5
26 (commencing with Section 11340) of Part 1 of Division 3 of Title
27 2 of the Government Code.

28 (d) ~~By~~ *Notwithstanding Section 10231.5 of the Government*
29 *Code, by February 1 of each year, the department shall prepare*
30 *the following reports and shall make those reports, and the list of*
31 *estimated fees required to be published pursuant to subdivision*
32 *(c), available to the public by submitting them to the Legislature*
33 *and posting them on the department’s Internet Web site:*

34 (1) ~~The department shall prepare a~~ *A report of all costs for*
35 *activities of the Licensing and Certification Program. At a*
36 *minimum, this report shall include a narrative of all baseline*
37 *adjustments and their calculations, a description of how each*
38 *category of facility was calculated, descriptions of assumptions*
39 *used in any calculations, and shall recommend Licensing and*
40 *Certification Program fees in accordance with the following:*

1 (A) Projected workload and costs shall be grouped for each fee
2 category, including workload costs for facility categories that have
3 been established by statute and for which licensing regulations
4 and procedures are under development.

5 (B) Cost estimates, and the estimated fees, shall be based on
6 the appropriation amounts in the Governor’s proposed budget for
7 the next fiscal year, with and without policy adjustments to the fee
8 methodology.

9 (C) The allocation of program, operational, and administrative
10 overhead, and indirect costs to fee categories shall be based on
11 generally accepted cost allocation methods. Significant items of
12 costs shall be directly charged to fee categories if the expenses can
13 be reasonably identified to the fee category that caused them.
14 Indirect and overhead costs shall be allocated to all fee categories
15 using a generally accepted cost allocation method.

16 (D) The amount of federal funds and General Fund moneys to
17 be received in the budget year shall be estimated and allocated to
18 each fee category based upon an appropriate metric.

19 (E) The fee for each category shall be determined by dividing
20 the aggregate state share of all costs for the Licensing and
21 Certification Program by the appropriate metric for the category
22 of licensure. Amounts actually received for new licensure
23 applications, including change of ownership applications, and late
24 payment penalties, pursuant to Section 1266.5, during each fiscal
25 year shall be calculated and 95 percent shall be applied to the
26 appropriate fee categories in determining Licensing and
27 Certification Program fees for the second fiscal year following
28 receipt of those funds. The remaining 5 percent shall be retained
29 in the fund as a reserve until appropriated.

30 (2) (A) ~~The department shall prepare a~~ A staffing and systems
31 analysis to ensure efficient and effective utilization of fees
32 collected, proper allocation of departmental resources to licensing
33 and certification activities, survey schedules, complaint
34 investigations, enforcement and appeal activities, data collection
35 and dissemination, surveyor training, and policy development.

36 (B) The analysis under this paragraph shall be made available
37 to interested persons and shall include all of the following:

38 (i) The number of surveyors and administrative support
39 personnel devoted to the licensing and certification of health care
40 facilities.

- 1 (ii) The percentage of time devoted to licensing and certification
- 2 activities for the various types of health facilities.
- 3 (iii) The number of facilities receiving full surveys and the
- 4 frequency and number of ~~follow up~~ *followup* visits.
- 5 (iv) The number and timeliness of complaint investigations.
- 6 (v) Data on deficiencies and citations issued, and numbers of
- 7 citation review conferences and arbitration hearings.
- 8 (vi) Other applicable activities of the licensing and certification
- 9 division.
- 10 (3) *The annual program fee report described in subdivision (d)*
- 11 *of Section 1416.36.*
- 12 (e) *The reports required pursuant to subdivision (d) shall be*
- 13 *submitted in compliance with Section 9795 of the Government*
- 14 *Code.*
- 15 (e)
- 16 (f) (1) The department shall adjust the list of estimated fees
- 17 published pursuant to subdivision (c) if the annual Budget Act or
- 18 other enacted legislation includes an appropriation that differs
- 19 from those proposed in the Governor’s proposed budget for that
- 20 fiscal year.
- 21 (2) The department shall publish a final fee list, with an
- 22 explanation of any adjustment, by the issuance of an all facilities
- 23 letter, by posting the list on the department’s Internet Web site,
- 24 and by including the final fee list as part of the licensing application
- 25 package, within 14 days of the enactment of the annual Budget
- 26 Act. The adjustment of fees and the publication of the final fee list
- 27 shall not be subject to the rulemaking requirements of Chapter 3.5
- 28 (commencing with Section 11340) of Part 1 of Division 3 of Title
- 29 2 of the Government Code.
- 30 (f)
- 31 (g) (1) ~~No fees~~ *Fees* shall *not* be assessed or collected pursuant
- 32 to this section from any state department, authority, bureau,
- 33 commission, or officer, unless federal financial participation would
- 34 become available by doing so and an appropriation is included in
- 35 the annual Budget Act for that state department, authority, bureau,
- 36 commission, or officer for this purpose. ~~No fees~~ *Fees* shall *not* be
- 37 assessed or collected pursuant to this section from any clinic that
- 38 is certified only by the federal government and is exempt from
- 39 licensure under Section 1206, unless federal financial participation
- 40 would become available by doing so.

1 (2) For the 2006–07 state fiscal year,~~no~~ a fee shall *not* be
2 assessed or collected pursuant to this section from any general
3 acute care hospital owned by a health care district with 100 beds
4 or less.

5 ~~(g)~~

6 (h) The Licensing and Certification Program may change annual
7 license expiration renewal dates to provide for efficiencies in
8 operational processes or to provide for sufficient ~~cash flow~~
9 *cashflow* to pay for expenditures. If an annual license expiration
10 date is changed, the renewal fee shall be prorated accordingly.
11 Facilities shall be provided with a 60-day notice of any change in
12 their annual license renewal date.

13 *SEC. 5. Article 10.6 (commencing with Section 1339.40) is*
14 *added to Chapter 2 of Division 2 of the Health and Safety Code,*
15 *to read:*

16
17 *Article 10.6. Hospice Licensing*

18
19 *1339.40. For the purposes of this article, the following*
20 *definitions apply:*

21 (a) *“Bereavement services” has the same meaning as defined*
22 *in subdivision (a) of Section 1746.*

23 (b) *“Hospice care” means a specialized form of interdisciplinary*
24 *health care that is designed to provide palliative care, alleviate*
25 *the physical, emotional, social, and spiritual discomforts of an*
26 *individual who is experiencing the last phases of life due to the*
27 *existence of a terminal disease, and provide supportive care to the*
28 *primary caregiver and the family of the hospice patient, and that*
29 *meets all of the following criteria:*

30 (1) *Considers the patient and the patient’s family, in addition*
31 *to the patient, as the unit of care.*

32 (2) *Utilizes an interdisciplinary team to assess the physical,*
33 *medical, psychological, social, and spiritual needs of the patient*
34 *and the patient’s family.*

35 (3) *Requires the interdisciplinary team to develop an overall*
36 *plan of care and to provide coordinated care that emphasizes*
37 *supportive services, including, but not limited to, home care, pain*
38 *control, and limited inpatient services. Limited inpatient services*
39 *are intended to ensure both continuity of care and appropriateness*
40 *of services for those patients who cannot be managed at home*

1 *because of acute complications or the temporary absence of a*
2 *capable primary caregiver.*

3 *(4) Provides for the palliative medical treatment of pain and*
4 *other symptoms associated with a terminal disease, but does not*
5 *provide for efforts to cure the disease.*

6 *(5) Provides for bereavement services following death to assist*
7 *the family in coping with social and emotional needs associated*
8 *with the death of the patient.*

9 *(6) Actively utilizes volunteers in the delivery of hospice services.*

10 *(7) To the extent appropriate, based on the medical needs of*
11 *the patient, provides services in the patient's home or primary*
12 *place of residence.*

13 *(c) "Hospice facility" means a health facility as defined in*
14 *subdivision (n) of Section 1250.*

15 *(d) "Inpatient hospice care" means hospice care that is provided*
16 *to patients in a hospice facility, including routine, continuous and*
17 *inpatient care directly as specified in Section 418.10 of Title 42*
18 *of the Code of Federal Regulations, and may include short-term*
19 *inpatient respite care as specified in Section 418.108 of Title 42*
20 *of the Code of Federal Regulations.*

21 *(e) "Interdisciplinary team" has the same meaning as defined*
22 *in subdivision (g) of Section 1746.*

23 *(f) "Medical direction" has the same meaning as defined in*
24 *subdivision (h) of Section 1746.*

25 *(g) "Palliative care" has the same meaning as defined in*
26 *subdivision (j) of Section 1746.*

27 *(h) "Plan of care" has the same meaning as defined in*
28 *subdivision (l) of Section 1746.*

29 *(i) "Skilled nursing services" has the same meaning as defined*
30 *in subdivision (n) of Section 1746.*

31 *(j) "Social services/counseling services" has the same meaning*
32 *as defined in subdivision (o) of Section 1746.*

33 *(k) "Terminal disease" or "terminal illness" has the same*
34 *meaning as defined in subdivision (p) of Section 1746.*

35 *(l) "Volunteer services" has the same meaning as defined in*
36 *subdivision (q) of Section 1746.*

37 *1339.41. (a) A person, governmental agency, or political*
38 *subdivision of the state shall not be licensed as a hospice facility*
39 *under this chapter unless the person or entity is a provider of*
40 *hospice services licensed pursuant to Section 1751 and is certified*

1 *as a hospice facility under Part 418 of Title 42 of the Code of*
2 *Federal Regulations.*

3 *(b) A hospice provider that intends to provide inpatient hospice*
4 *care in the hospice provider's own facility shall submit an*
5 *application and fee for licensure as a hospice facility under this*
6 *chapter. Notwithstanding the maximum period for a provisional*
7 *license under subdivision (b) of Section 1268.5, the department*
8 *may issue a provisional license to a hospice facility for a period*
9 *of up to one year.*

10 *(c) A verified application for a new license completed on forms*
11 *furnished by the department shall be submitted to the department*
12 *upon the occurrence of either of the following:*

13 *(1) Establishment of a hospice facility.*

14 *(2) Change of ownership.*

15 *(d) The licensee shall submit to the department a verified*
16 *application for a corrected license completed on forms furnished*
17 *by the department upon the occurrence of any of the following:*

18 *(1) Construction of new or replacement hospice facility.*

19 *(2) Increase in licensed bed capacity.*

20 *(3) Change of name of facility.*

21 *(4) Change of licensed category.*

22 *(5) Change of location of facility.*

23 *(6) Change in bed classification.*

24 *(e) (1) A hospice facility that participates in the Medicare and*
25 *Medicaid Programs may obtain initial certification from a federal*
26 *Centers for Medicare and Medicaid Services (CMS) approved*
27 *accreditation organization.*

28 *(2) If the CMS-approved accreditation organization conducts*
29 *certification inspections, the hospice facility shall transmit to the*
30 *department, within 30 days of receipt, a copy of the final*
31 *accreditation report of the accreditation organization.*

32 *(f) A hospice facility shall be separately licensed, irrespective*
33 *of the location of the facility.*

34 *(g) (1) The licensee shall notify the department in writing of*
35 *any changes in the information provided pursuant to subdivision*
36 *(d) within 10 days of these changes. This notice shall include*
37 *information and documentation regarding the changes.*

38 *(2) Each licensee shall notify the department within 10 days in*
39 *writing of any change of the mailing address of the licensee. This*
40 *notice shall include the new mailing address of the licensee.*

1 (3) When a change in the principal officer of a corporate
2 licensee, including the chairman, president, or general manager
3 occurs, the licensee shall notify the department of this change
4 within 10 days in writing. This notice shall include the name and
5 business address of the officer.

6 (4) Any decrease in licensed bed capacity of the facility shall
7 require notification by letter to the department and shall result in
8 the issuance of a corrected license.

9 1339.42. (a) No private or public organization, including, but
10 not limited to, any partnership, corporation, or political subdivision
11 of the state, or other governmental agency within the state, shall
12 do any of the following without a license issued pursuant to this
13 chapter:

14 (1) Represent itself to be a hospice facility by its name or
15 advertisement, soliciting, or any other presentments to the public,
16 or in the context of services within the scope of this chapter imply
17 that it is licensed to provide those services or to make any reference
18 to employee bonding in relation to those services.

19 (2) Use the words “hospice facility,” “hospice home,”
20 “hospice-facility,” or any combination of those terms, within its
21 name.

22 (3) Use words to imply that it is licensed as a hospice facility
23 to provide those services.

24 (b) A hospice facility licensee shall obtain criminal background
25 checks for its employees, volunteers, and contractors in accordance
26 with federal Medicare conditions of participation (42 C.F.R. Part
27 418 et seq.) and as may be required in accordance with state law.
28 The hospice facility licensee shall pay the costs of obtaining a
29 criminal background check.

30 1339.43. (a) A hospice facility shall provide a home-like
31 environment that is comfortable and accommodating to both the
32 patient and patient’s visitors.

33 (b) Building standards for hospice facilities adopted pursuant
34 to this chapter relating to fire and panic safety, and other
35 regulations for hospice facilities adopted pursuant to this chapter,
36 shall apply uniformly throughout the state. No city, county, city
37 and county, including a charter city or charter county, or fire
38 protection district shall adopt or enforce any ordinance or local
39 rule or regulation relating to fire and panic safety in buildings or
40 structures subject to this section that is inconsistent with the rules

1 *and regulations for hospice facilities adopted pursuant to this*
2 *chapter.*

3 *(c) The hospice facility shall meet the fire protection standards*
4 *set forth in the federal Medicare conditions of participation (42*
5 *C.F.R. Part 418 et seq.).*

6 *(d) A hospice facility may operate as a freestanding health*
7 *facility.*

8 *(1) Until the Office of Statewide Health Planning and*
9 *Development, in consultation with the Office of the State Fire*
10 *Marshal, develops and adopts building standards for hospice*
11 *facilities, a freestanding hospice facility shall meet applicable*
12 *building standards and requirements relating to the physical*
13 *environment of the facility as specified in Section 418.100 of Title*
14 *42 of the Code of Federal Regulations. The building standards*
15 *developed shall, at a minimum, maintain the requirements specified*
16 *in that section.*

17 *(2) A freestanding hospice facility shall be under the jurisdiction*
18 *of the local building department. As part of the license application,*
19 *the prospective licensee shall submit evidence of compliance with*
20 *applicable building standards for hospice facilities.*

21 *(3) The physical environment of the hospice facility shall be*
22 *adequate to provide the level of care and service required by the*
23 *residents of the facility as determined by the department.*

24 *(e) A hospice facility may be located within the physical plant*
25 *of another health facility.*

26 *(1) Notwithstanding subdivision (d) and paragraphs (8) and*
27 *(9) of subdivision (b) of Section 129725, a hospice facility located*
28 *within the physical plant of another licensed health facility that is*
29 *under the jurisdiction of the Office of Statewide Health Planning*
30 *and Development, shall meet the building standards for that*
31 *category of health facility within which the hospice facility is*
32 *located, and plans shall be submitted to the office for review of*
33 *any new construction or renovation of these hospice facilities. As*
34 *part of the license application, the prospective licensee shall submit*
35 *evidence of compliance with the building codes enforced by the*
36 *Office of Statewide Health Planning and Development.*

37 *(2) The physical environment of the facility shall be adequate*
38 *to provide the level of care and service required by the residents*
39 *of the facility as determined by the department.*

1 (3) In the event the space used by the hospice facility reverts
2 back to the facility with which the hospice facility shared the space,
3 the building standards applicable to the former shared space, as
4 identified by date of enactment of the standards, shall not change
5 due solely to the reversion.

6 (4) A hospice facility that provides inpatient hospice care and
7 is located within, adjacent to or physically connected to another
8 health facility shall provide all of the following:

9 (A) A designated nursing station.

10 (B) Adequate space for the preparation of drugs with lockable,
11 secure storage that is accessible only by authorized personnel.

12 (C) Signage that shall clearly demarcate the hospice facility
13 area from the facility with which the hospice facility shares space.

14 (D) Doors for every exit and entrance to the hospice facility.

15 (E) Contiguous beds within the designated area set aside for
16 the hospice facility.

17 (f) If a freestanding hospice facility is located on the site of or
18 is physically connected to a health facility that is under the
19 jurisdiction of the Office of Statewide Health Planning and
20 Development or both, the hospice facility shall submit plans for
21 any new construction or renovation of the hospice facility to the
22 office for plan review and approval. The Office of Statewide Health
23 Planning and Development shall review the hospice facility plans
24 to identify any impacts to the health facility under the office's
25 jurisdiction that may compromise the health facility's continued
26 compliance with applicable laws and regulations.

27 1339.44. (a) A hospice facility shall provide, or make provision
28 for, all of the following services and requirements:

29 (1) (A) Medical direction and adequate staff. Minimum staffing
30 standards that require at least one registered nurse to be on duty
31 24 hours per day and a maximum of six patients assigned at any
32 given time per direct caregiver.

33 (B) For purposes of this section, any additional direct caregiver
34 necessary beyond the registered nurse required pursuant to
35 paragraph (1) may include a registered nurse, as described in
36 Section 2732 of the Business and Professions Code, a licensed
37 vocational nurse, as described in Section 2864 of the Business and
38 Professions Code, and a certified nurse assistant.

39 (2) Skilled nursing services.

40 (3) Palliative care.

- 1 (4) *Social services and counseling services.*
- 2 (5) *Bereavement services.*
- 3 (6) *Volunteer services.*
- 4 (7) *Dietary services.*
- 5 (8) *Pharmaceutical services.*
- 6 (9) *Physical therapy, occupational therapy, and*
- 7 *speech-language therapy.*
- 8 (10) *Patient rights.*
- 9 (11) *Disaster preparedness. Disaster preparedness plans for*
- 10 *both internal and external disasters shall protect hospice patients,*
- 11 *employees, and visitors, and reflect coordination with local*
- 12 *agencies that are responsible for disaster preparedness and*
- 13 *emergency response.*
- 14 (12) *An adequate, safe, and sanitary physical environment.*
- 15 (13) *Housekeeping services.*
- 16 (14) *Patient medical records.*
- 17 (15) *Other administrative requirements.*
- 18 (b) *The department may adopt regulations that establish*
- 19 *standards for the provision of the services in subdivision (a) and*
- 20 *any additional qualifications and requirements for licensure above*
- 21 *the requirements of this article.*
- 22 (c) *A hospice patient has a right to be informed of his or her*
- 23 *rights, and the hospice facility shall protect and promote the*
- 24 *exercise of these rights. The hospice facility shall comply with the*
- 25 *patients' rights regulation in Section 418.52 of Title 42 of the Code*
- 26 *of Federal Regulations unless the department adopts regulations*
- 27 *establishing alternative standards pursuant to Section 1250.1. In*
- 28 *addition, the hospice facility shall provide each patient with all of*
- 29 *the following:*
- 30 (1) *Information at admission to a hospice facility pursuant to*
- 31 *Chapter 3.9 (commencing with Section 1599).*
- 32 (2) *Full information regarding his or her health status and*
- 33 *options for end-of-life care.*
- 34 (3) *Care that reflects individual preferences regarding*
- 35 *end-of-life care, including the right to refuse any treatment or*
- 36 *procedure.*
- 37 (4) *Treatment with consideration, respect, and full recognition*
- 38 *of dignity and individuality, including privacy in treatment and*
- 39 *care of personal needs.*

1 (5) Right to visitors of the patient's choosing, at any time the
2 patient chooses, and privacy for those visits.

3 (d) The hospice facility shall continue to provide services to
4 family and friends after the patient's stay in the hospice facility in
5 accordance with the patient's plan of care. These services may be
6 provided by the hospice services program that operates the hospice
7 facility.

8 (e) The hospice facility shall demonstrate the ability to meet
9 licensing requirements and shall be fully responsible for meeting
10 all licensing requirements, regardless of whether those
11 requirements are met through direct provision by the facility or
12 under contract with another entity. The hospice facility's reliance
13 on contractors to meet the licensing requirements does not exempt
14 the hospice facility from any requirements or in any way alter the
15 hospice facility's responsibilities. When a health facility provides
16 services under contract to a hospice facility, nothing shall preclude
17 the department from holding the health facility responsible for
18 violations of the law, if the department determines that the facts
19 also constitute a separate violation for the health facility providing
20 services under contract.

21 (f) The hospice facility shall provide inpatient hospice care in
22 compliance with Section 418.3 and Sections 418.52 to 418.116,
23 inclusive, of Title 42 of the Code of Federal Regulations until the
24 department adopts regulations establishing alternative standards
25 pursuant to Section 1250.1.

26 SEC. 6. Section 1599 of the Health and Safety Code is amended
27 to read:

28 1599. It is the intent of the Legislature in enacting this chapter
29 to expressly set forth fundamental human rights which all patients
30 shall be entitled to in a skilled nursing ~~or~~, intermediate care facility,
31 or hospice facility, as defined in Section 1250, and to ensure that
32 patients in such facilities are advised of their fundamental rights
33 and the obligations of the facility.

34 SEC. 7. Section 1599.1 of the Health and Safety Code is
35 amended to read:

36 1599.1. Written policies regarding the rights of patients shall
37 be established and shall be made available to the patient, to any
38 guardian, next of kin, sponsoring agency or representative payee,
39 and to the public. Those policies and procedures shall ensure that
40 each patient admitted to the facility has the following rights and

1 is notified of the following facility obligations, in addition to those
2 specified by regulation:

3 (a) The facility shall employ an adequate number of qualified
4 personnel to carry out all of the functions of the facility.

5 (b) Each patient shall show evidence of good personal hygiene
6 and be given care to prevent bedsores, and measures shall be used
7 to prevent and reduce incontinence for each patient.

8 (c) The facility shall provide food of the quality and quantity
9 to meet the patients' needs in accordance with physicians' orders.

10 (d) The facility shall provide an activity program staffed and
11 equipped to meet the needs and interests of each patient and to
12 encourage self-care and resumption of normal activities. Patients
13 shall be encouraged to participate in activities suited to their
14 individual needs.

15 (e) The facility shall be clean, sanitary, and in good repair at all
16 times.

17 (f) A nurses' call system shall be maintained in operating order
18 in all nursing units and provide visible and audible signal
19 communication between nursing personnel and patients. Extension
20 cords to each patient's bed shall be readily accessible to patients
21 at all times.

22 (g) (1) If a facility has a significant beneficial interest in an
23 ancillary health service provider or if a facility knows that an
24 ancillary health service provider has a significant beneficial interest
25 in the facility, as provided by subdivision (a) of Section 1323, or
26 if the facility has a significant beneficial interest in another facility,
27 as provided by subdivision (c) of Section 1323, the facility shall
28 disclose that interest in writing to the patient, or his or her
29 representative, and advise the patient, or his or her representative,
30 that the patient may choose to have another ancillary health service
31 provider, or facility, as the case may be, provide any supplies or
32 services ordered by a member of the medical staff of the facility.

33 (2) A facility is not required to make any disclosures required
34 by this subdivision to any patient, or his or her representative, if
35 the patient is enrolled in an organization or entity that provides or
36 arranges for the provision of health care services in exchange for
37 a prepaid capitation payment or premium.

38 (h) (1) If a resident of a long-term health care facility has been
39 hospitalized in an acute care hospital and asserts his or her rights
40 to readmission pursuant to bed hold provisions, or readmission

1 rights of either state or federal law, and the facility refuses to
2 readmit him or her, the resident may appeal the facility's refusal.

3 (2) The refusal of the facility as described in this subdivision
4 shall be treated as if it were an involuntary transfer under federal
5 law, and the rights and procedures that apply to appeals of transfers
6 and discharges of nursing facility residents shall apply to the
7 resident's appeal under this subdivision.

8 (3) If the resident appeals pursuant to this subdivision, and the
9 resident is eligible under the Medi-Cal program, the resident shall
10 remain in the hospital and the hospital may be reimbursed at the
11 administrative day rate, pending the final determination of the
12 hearing officer, unless the resident agrees to placement in another
13 facility.

14 (4) If the resident appeals pursuant to this subdivision, and the
15 resident is not eligible under the Medi-Cal program, the resident
16 shall remain in the hospital if other payment is available, pending
17 the final determination of the hearing officer, unless the resident
18 agrees to placement in another facility.

19 (5) If the resident is not eligible for participation in the Medi-Cal
20 program and has no other source of payment, the hearing and final
21 determination shall be made within 48 hours.

22 (i) (1) Effective July 1, 2007, Sections 483.10, 483.12, 483.13,
23 and 483.15 of Title 42 of the Code of Federal Regulations in effect
24 on July 1, 2006, shall apply to each skilled nursing facility and
25 intermediate care facility, regardless of a resident's payment source
26 or the Medi-Cal or Medicare certification status of the skilled
27 nursing facility or intermediate care facility in which the resident
28 resides, except that a noncertified facility is not obligated to provide
29 notice of Medicaid or Medicare benefits, covered services, or
30 eligibility procedures.

31 (2) *Effective January 1, 2013, Sections 483.10, 483.12, 483.13,*
32 *and 483.15 of Title 42 of the Code of Federal Regulations in effect*
33 *on July 1, 2006, shall apply to each hospice facility, regardless of*
34 *a resident's payment source or the Medi-Cal or Medicare*
35 *certification status of the hospice facility in which the resident*
36 *resides, except that a noncertified facility is not obligated to*
37 *provide notice of Medicaid or Medicare benefits, covered services,*
38 *or eligibility procedures and a hospice facility is not obligated to*
39 *comply with the provisions of subdivision (f) of Section 483.15 of*
40 *Title 42 of the Code of Federal Regulations.*

1 *SEC. 8. Section 1599.4 of the Health and Safety Code is*
2 *amended to read:*

3 1599.4. In no event shall this chapter be construed or applied
4 in a manner which imposes new or additional obligations or
5 standards on skilled nursing ~~or~~, intermediate care facilities, *or*
6 *hospice facilities* or their personnel, other than in regard to the
7 notification and explanation of patient’s rights or unreasonable
8 costs.

9 ~~SEC. 5.~~

10 *SEC. 9.* Section 1746 of the Health and Safety Code is amended
11 to read:

12 1746. For the purposes of this chapter, the following definitions
13 apply:

14 (a) “Bereavement services” means those services available to
15 the surviving family members for a period of at least one year after
16 the death of the patient, including an assessment of the needs of
17 the bereaved family and the development of a care plan that meets
18 these needs, both prior to and following the death of the patient.

19 (b) “Home health aide” has the same meaning as that term is
20 defined in subdivision (c) of Section 1727.

21 (c) “Home health aide services” means those services described
22 in subdivision (d) of Section 1727 that provide for the personal
23 care of the terminally ill patient and the performance of related
24 tasks in the patient’s home in accordance with the plan of care in
25 order to increase the level of comfort and to maintain personal
26 hygiene and a safe, healthy environment for the patient.

27 (d) “Hospice” means a specialized form of interdisciplinary
28 health care that is designed to provide palliative care, alleviate the
29 physical, emotional, social, and spiritual discomforts of an
30 individual who is experiencing the last phases of life due to the
31 existence of a terminal disease, and provide supportive care to the
32 primary caregiver and the family of the hospice patient, and that
33 meets all of the following criteria:

34 (1) Considers the patient and the patient’s family, in addition
35 to the patient, as the unit of care.

36 (2) Utilizes an interdisciplinary team to assess the physical,
37 medical, psychological, social, and spiritual needs of the patient
38 and the patient’s family.

39 (3) Requires the interdisciplinary team to develop an overall
40 plan of care and to provide coordinated care that emphasizes

1 supportive services, including, but not limited to, home care, pain
2 control, and limited inpatient services. Limited inpatient services
3 are intended to ensure both continuity of care and appropriateness
4 of services for those patients who cannot be managed at home
5 because of acute complications or the temporary absence of a
6 capable primary caregiver.

7 (4) Provides for the palliative medical treatment of pain and
8 other symptoms associated with a terminal disease, but does not
9 provide for efforts to cure the disease.

10 (5) Provides for bereavement services following death to assist
11 the family in coping with social and emotional needs associated
12 with the death of the patient.

13 (6) Actively utilizes volunteers in the delivery of hospice
14 services.

15 (7) To the extent appropriate, based on the medical needs of the
16 patient, provides services in the patient's home or primary place
17 of residence.

18 (e) "Hospice facility" means a health facility as defined in
19 subdivision (n) of Section 1250.

20 (f) "Inpatient care arrangements" means arranging for those
21 short inpatient stays that may become necessary to manage acute
22 symptoms or because of the temporary absence, or need for respite,
23 of a capable primary caregiver. The hospice shall arrange for these
24 stays, ensuring both continuity of care and the appropriateness of
25 services.

26 (g) "An interdisciplinary team" means the hospice care team
27 that includes, but is not limited to, the patient and patient's family,
28 a physician and surgeon, a registered nurse, a social worker, a
29 volunteer, and a spiritual caregiver. The team shall be coordinated
30 by a registered nurse and shall be under medical direction. The
31 team shall meet regularly to develop and maintain an appropriate
32 plan of care.

33 (h) "Medical direction" means those services provided by a
34 licensed physician and surgeon who is charged with the
35 responsibility of acting as a consultant to the interdisciplinary
36 team, a consultant to the patient's attending physician and surgeon,
37 as requested, with regard to pain and symptom management, and
38 a liaison with physician and surgeons in the community.

39 (i) "Multiple location" means a location or site from which a
40 hospice makes available basic hospice services within the service

1 area of the parent agency. A multiple location shares
2 administration, supervision, policies and procedures, and services
3 with the parent agency in a manner that renders it unnecessary for
4 the site to independently meet the licensing requirements.

5 (j) ~~“Palliative care” refers to medical treatment, interdisciplinary~~
6 ~~care, or consultation provided to the patient or family members,~~
7 ~~or both, that has as its primary purposes preventing or relieving~~
8 ~~suffering and enhancing the quality of life, rather than curing the~~
9 ~~disease, as described in subdivision (b) of Section 1339.31, of a~~
10 ~~patient who has an end-stage medical condition means patient and~~
11 ~~family-centered care that optimizes quality of life of a patient with~~
12 ~~a terminal illness by anticipating, preventing, and treating~~
13 ~~suffering. Palliative care throughout the continuum of illness~~
14 ~~involves addressing physical, intellectual, emotional, social, and~~
15 ~~spiritual needs and to facilitate patient autonomy, access to~~
16 ~~information, and choice.~~

17 (k) “Parent agency” means the part of the hospice that is licensed
18 pursuant to this chapter and that develops and maintains
19 administrative control of multiple locations. All services provided
20 from each multiple location and parent agency are the responsibility
21 of the parent agency.

22 (l) “Plan of care” means a written plan developed by the
23 attending physician and surgeon, the medical director or physician
24 and surgeon designee, and the interdisciplinary team that addresses
25 the needs of a patient and family admitted to the hospice
26 organization. The hospice shall retain overall responsibility for
27 the development and maintenance of the plan of care and quality
28 of services delivered.

29 (m) “Preliminary services” means those services authorized
30 pursuant to subdivision (d) of Section 1749.

31 (n) “Skilled nursing services” means nursing services provided
32 by or under the supervision of a registered nurse under a plan of
33 care developed by the interdisciplinary team and the patient’s
34 physician and surgeon to a patient and his or her family that pertain
35 to the palliative, supportive services required by patients with a
36 terminal illness. Skilled nursing services include, but are not limited
37 to, patient assessment, evaluation and case management of the
38 medical nursing needs of the patient, the performance of prescribed
39 medical treatment for pain and symptom control, the provision of
40 emotional support to both the patient and his or her family, and

1 the instruction of caregivers in providing personal care to the
2 patient. Skilled nursing services shall provide for the continuity
3 of services for the patient and his or her family. Skilled nursing
4 services shall be available on a 24-hour on-call basis.

5 (o) “Social services/counseling services” means those counseling
6 and spiritual care services that assist the patient and his or her
7 family to minimize stresses and problems that arise from social,
8 economic, psychological, or spiritual needs by utilizing appropriate
9 community resources, and maximize positive aspects and
10 opportunities for growth.

11 (p) “Terminal disease” or “terminal illness” means a medical
12 condition resulting in a prognosis of life of one year or less, if the
13 disease follows its natural course.

14 (q) “Volunteer services” means those services provided by
15 trained hospice volunteers who have agreed to provide service
16 under the direction of a hospice staff member who has been
17 designated by the hospice to provide direction to hospice
18 volunteers. Hospice volunteers may be used to provide support
19 and companionship to the patient and his or her family during the
20 remaining days of the patient’s life and to the surviving family
21 following the patient’s death.

22 *SEC. 10. Section 1795 of the Health and Safety Code is*
23 *amended to read:*

24 1795. (a) Notwithstanding any other provision of law, a skilled
25 nursing facility as defined in subdivision (c) of Section 1250, any
26 intermediate care facility, as defined in subdivision (d), (e), (g),
27 and (h) of Section 1250, ~~or a congregate living facility, as defined~~
28 *in subdivision (i) of Section 1250, or a hospice facility, as defined*
29 *in subdivision (n) of Section 1250, shall make reasonable efforts*
30 *to contact the person named in the resident’s admission agreement*
31 *as the resident’s contact person, or the resident’s responsible*
32 *person, within 24 hours after a significant change in the resident’s*
33 *health or mental status.*

34 (b) Notwithstanding any other provision of law, a residential
35 care facility for the elderly, as defined in subdivision (k) of Section
36 1569.2, shall make reasonable efforts to contact the person named
37 in the resident’s admission agreement as the resident’s contact
38 person, or the resident’s responsible person, within 24 hours after
39 a significant change in the resident’s health or mental status.

1 SEC. 6. ~~Section 1749.1 is added to the Health and Safety Code,~~
2 ~~to read:~~

3 ~~1749.1. (a) (1) Only a hospice licensed and certified in~~
4 ~~California may apply for a hospice facility license.~~

5 ~~(2) On or after the effective date of regulations to implement~~
6 ~~this section, a hospice provider that seeks to provide short-term~~
7 ~~inpatient respite or inpatient care directly in the hospice provider's~~
8 ~~own facility shall submit an application for licensure as a hospice~~
9 ~~facility.~~

10 ~~(3) A hospice provider that provides short-term inpatient respite~~
11 ~~or inpatient care directly in the hospice provider's own facility~~
12 ~~prior to the effective date of regulations to implement this section~~
13 ~~may also continue to be licensed as a specialty hospital, skilled~~
14 ~~nursing facility, or congregate living health facility.~~

15 ~~(4) Each application for a new or renewed hospice facility~~
16 ~~license under this chapter shall be accompanied by an annual~~
17 ~~Licensing and Certification Program fee set in accordance with~~
18 ~~Section 1266.~~

19 ~~(5) A hospice facility shall be separately licensed, irrespective~~
20 ~~of the location of the facility.~~

21 ~~(b) Hospice facility licensees shall be responsible for obtaining~~
22 ~~criminal background checks for employees, volunteers, and~~
23 ~~contractors in accordance with federal Medicare conditions of~~
24 ~~participation (42 C.F.R. 418 et seq.) and as may be required in~~
25 ~~accordance with state law. The hospice facility licensee shall pay~~
26 ~~the costs of obtaining a criminal background check.~~

27 ~~(c) Building standards adopted pursuant to this section relating~~
28 ~~to fire and panic safety, and other regulations adopted pursuant to~~
29 ~~this section, shall apply uniformly throughout the state. A city,~~
30 ~~county, city and county, including a charter city or charter county,~~
31 ~~or fire protection district shall not adopt or enforce any ordinance~~
32 ~~or local rule or regulation relating to fire and panic safety in~~
33 ~~buildings or structures subject to this section that is inconsistent~~
34 ~~with the rules and regulations adopted pursuant to this section.~~

35 ~~(d) The hospice facility shall meet the fire protection standards~~
36 ~~set forth in federal Medicare conditions of participation (42 C.F.R.~~
37 ~~418 et seq.). A freestanding hospice facility shall meet the same~~
38 ~~building standards as a congregate living health facility as~~
39 ~~described in subparagraph (B) of paragraph (2) of subdivision (i)~~
40 ~~of Section 1250, until the Office of Statewide Health Planning and~~

1 Development, in consultation with the Office of the State Fire
2 Marshal, develops and adopts building standards for hospice
3 facilities.

4 (e) A hospice facility shall operate as a freestanding health
5 facility, but may also be located adjacent to, physically connected
6 to, or on the building grounds of, another health facility. As part
7 of the application for licensure, the prospective licensee shall
8 submit evidence of compliance with local building codes. If the
9 hospice facility is located adjacent to, physically connected to, or
10 on the building grounds of another health facility, the prospective
11 licensee shall also submit evidence that the hospice facility
12 complies with the building standards for the other health facility,
13 if these are more stringent. In addition, the physical environment
14 of the facility shall be adequate to provide the level of care and
15 service required by the residents of the facility as determined by
16 the department.

17 SEC. 7. Section 1749.3 is added to the Health and Safety Code,
18 to read:

19 1749.3. (a) In order for a hospice organization to be licensed
20 as a hospice facility, it shall provide, or make provision for, all of
21 the following services and requirements:

- 22 (1) Medical direction and adequate staff.
- 23 (2) Skilled nursing services.
- 24 (3) Palliative care.
- 25 (4) Social services and counseling services.
- 26 (5) Bereavement services.
- 27 (6) Volunteer services.
- 28 (7) Dietary services.
- 29 (8) Pharmaceutical services.
- 30 (9) Physical therapy, occupational therapy, and speech-language
31 therapy.
- 32 (10) Patient rights.
- 33 (11) Disaster preparedness.
- 34 (12) An adequate, safe, and sanitary physical environment.
- 35 (13) Housekeeping services.
- 36 (14) Patient medical records.
- 37 (15) Other administrative requirements.

38 (b) The department shall, by January 1, 2017, adopt regulations
39 that establish standards for the provision of the services in

1 subdivision (a). These regulations shall include, but are not limited
2 to, all of the following:

3 (1) ~~Minimum staffing standards that require at least one licensed~~
4 ~~nurse to be on duty 24 hours per day and a maximum of six patients~~
5 ~~at any given time per direct care staff person. A registered nurse~~
6 ~~shall be available for consultation and able to come into the facility~~
7 ~~within 30 minutes, if necessary, when no registered nurse is on~~
8 ~~duty.~~

9 (2) ~~Patient rights provisions that provide each patient with all~~
10 ~~of the following:~~

11 (A) ~~Provision of information at admission to a hospice facility~~
12 ~~that is the same information provided to patients of skilled nursing~~
13 ~~facilities pursuant to Chapter 3.9 (commencing with Section 1599).~~

14 (B) ~~Full information regarding his or her health status and~~
15 ~~options for end-of-life care.~~

16 (C) ~~Care that reflects individual preferences regarding~~
17 ~~end-of-life care, including the right to refuse any treatment or~~
18 ~~procedure.~~

19 (D) ~~Treatment with consideration, respect, and full recognition~~
20 ~~of dignity and individuality, including privacy in treatment and~~
21 ~~care of personal needs.~~

22 (E) ~~Entitlement to visitors of the patient's choosing, at any time~~
23 ~~the patient chooses, and ensured privacy for those visits.~~

24 (3) ~~Disaster preparedness plans for both internal and external~~
25 ~~disasters that protect hospice patients, employees, and visitors,~~
26 ~~and reflect coordination with local agencies that are responsible~~
27 ~~for disaster preparedness and emergency response.~~

28 (4) ~~Additional qualifications and requirements for licensure~~
29 ~~above the requirements of this section and Section 1749.1.~~

30 (5) ~~Compliance with Part 418 of Title 42 of the Code of Federal~~
31 ~~Regulations established by the federal Centers for Medicare and~~
32 ~~Medicaid Services relating to hospice care.~~

33 (e) ~~The hospice facility shall provide a homelike environment~~
34 ~~that is comfortable and accommodating to both the patient and the~~
35 ~~patient's visitors.~~

36 (d) ~~The hospice organization shall continue to provide services~~
37 ~~to the patient and the patient's family after the patient's stay in the~~
38 ~~hospice facility in accordance with the patient's plan of care. These~~
39 ~~services may be provided by the hospice organization that operates~~
40 ~~the hospice facility.~~

1 ~~(e) The hospice facility shall demonstrate the ability to meet~~
2 ~~licensing requirements and shall be fully responsible for meeting~~
3 ~~all licensing requirements, regardless of whether those requirements~~
4 ~~are met through direct provision by the facility or under contract~~
5 ~~with another entity. The hospice facility's reliance on contractors~~
6 ~~to meet the licensing requirements does not exempt the hospice~~
7 ~~facility or in any way mitigate the hospice facility's responsibilities.~~

8 ~~(f) The hospice facility shall prevent unlawful or unauthorized~~
9 ~~access to, and use or disclosure of, patients' medical information~~
10 ~~as specified in Section 1280.15 and shall be subject to the same~~
11 ~~penalties that apply to congregate living health facilities for a~~
12 ~~violation of that section.~~

13 ~~(g) Notwithstanding Section 1279, the department shall perform~~
14 ~~a licensing inspection no less than once every two years.~~

15 ~~(h) The hospice facility shall be subject to the same penalties~~
16 ~~that apply to congregate living health facilities pursuant to Chapter~~
17 ~~2.4 (commencing with Section 1417) for violations of the licensing~~
18 ~~provisions relating to hospice facilities.~~

19 ~~SEC. 8.~~

20 *SEC. 11.* Section 128755 of the Health and Safety Code is
21 amended to read:

22 128755. (a) (1) Hospitals shall file the reports required by
23 subdivisions (a), (b), (c), and (d) of Section 128735 with the office
24 within four months after the close of the hospital's fiscal year
25 except as provided in paragraph (2).

26 (2) If a licensee relinquishes the facility license or puts the
27 facility license in suspense, the last day of active licensure shall
28 be deemed a fiscal year end.

29 (3) The office shall make the reports filed pursuant to this
30 subdivision available no later than three months after they were
31 filed.

32 (b) (1) Skilled nursing facilities, intermediate care facilities,
33 intermediate care facilities/developmentally disabled, hospice
34 facilities, and congregate living facilities, including nursing
35 facilities certified by the department to participate in the Medi-Cal
36 program, shall file the reports required by subdivisions (a), (b),
37 (c), and (d) of Section 128735 with the office within four months
38 after the close of the facility's fiscal year, except as provided in
39 paragraph (2).

1 (2) (A) If a licensee relinquishes the facility license or puts the
2 facility licensure in suspense, the last day of active licensure shall
3 be deemed a fiscal year end.

4 (B) If a fiscal year end is created because the facility license is
5 relinquished or put in suspense, the facility shall file the reports
6 required by subdivisions (a), (b), (c), and (d) of Section 128735
7 within two months after the last day of active licensure.

8 (3) The office shall make the reports filed pursuant to paragraph
9 (1) available not later than three months after they are filed.

10 (4) (A) Effective for fiscal years ending on or after December
11 31, 1991, the reports required by subdivisions (a), (b), (c), and (d)
12 of Section 128735 shall be filed with the office by electronic media,
13 as determined by the office.

14 (B) Congregate living health facilities are exempt from the
15 electronic media reporting requirements of subparagraph (A).

16 (c) A hospital shall file the reports required by subdivision (g)
17 of Section 128735 as follows:

18 (1) For patient discharges on or after January 1, 1999, through
19 December 31, 1999, the reports shall be filed semiannually by
20 each hospital or its designee not later than six months after the end
21 of each semiannual period, and shall be available from the office
22 no later than six months after the date that the report was filed.

23 (2) For patient discharges on or after January 1, 2000, through
24 December 31, 2000, the reports shall be filed semiannually by
25 each hospital or its designee not later than three months after the
26 end of each semiannual period. The reports shall be filed by
27 electronic tape, diskette, or similar medium as approved by the
28 office. The office shall approve or reject each report within 15
29 days of receiving it. If a report does not meet the standards
30 established by the office, it shall not be approved as filed and shall
31 be rejected. The report shall be considered not filed as of the date
32 the facility is notified that the report is rejected. A report shall be
33 available from the office no later than 15 days after the date that
34 the report is approved.

35 (3) For patient discharges on or after January 1, 2001, the reports
36 shall be filed by each hospital or its designee for report periods
37 and at times determined by the office. The reports shall be filed
38 by online transmission in formats consistent with national standards
39 for the exchange of electronic information. The office shall approve
40 or reject each report within 15 days of receiving it. If a report does

1 not meet the standards established by the office, it shall not be
2 approved as filed and shall be rejected. The report shall be
3 considered not filed as of the date the facility is notified that the
4 report is rejected. A report shall be available from the office no
5 later than 15 days after the date that the report is approved.

6 (d) The reports required by subdivision (a) of Section 128736
7 shall be filed by each hospital for report periods and at times
8 determined by the office. The reports shall be filed by online
9 transmission in formats consistent with national standards for the
10 exchange of electronic information. The office shall approve or
11 reject each report within 15 days of receiving it. If a report does
12 not meet the standards established by the office, it shall not be
13 approved as filed and shall be rejected. The report shall be
14 considered not filed as of the date the facility is notified that the
15 report is rejected. A report shall be available from the office no
16 later than 15 days after the report is approved.

17 (e) The reports required by subdivision (a) of Section 128737
18 shall be filed by each hospital or freestanding ambulatory surgery
19 clinic for report periods and at times determined by the office. The
20 reports shall be filed by online transmission in formats consistent
21 with national standards for the exchange of electronic information.
22 The office shall approve or reject each report within 15 days of
23 receiving it. If a report does not meet the standards established by
24 the office, it shall not be approved as filed and shall be rejected.
25 The report shall be considered not filed as of the date the facility
26 is notified that the report is rejected. A report shall be available
27 from the office no later than 15 days after the report is approved.

28 (f) Facilities shall not be required to maintain a full-time
29 electronic connection to the office for the purposes of online
30 transmission of reports as specified in subdivisions (c), (d), and
31 (e). The office may grant exemptions to the online transmission
32 of data requirements for limited periods to facilities. An exemption
33 may be granted only to a facility that submits a written request and
34 documents or demonstrates a specific need for an exemption.
35 Exemptions shall be granted for no more than one year at a time,
36 and for no more than a total of five consecutive years.

37 (g) The reports referred to in paragraph (2) of subdivision (a)
38 of Section 128730 shall be filed with the office on the dates
39 required by applicable law and shall be available from the office
40 no later than six months after the date that the report was filed.

1 (h) The office shall post on its Internet Web site and make
2 available to any person a copy of any report referred to in
3 subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision
4 (a) of Section 128736, subdivision (a) of Section 128737, Section
5 128740, and, in addition, shall make available in electronic formats
6 reports referred to in subdivision (a), (b), (c), (d), or (g) of Section
7 128735, subdivision (a) of Section 128736, subdivision (a) of
8 Section 128737, Section 128740, and subdivisions (a) and (c) of
9 Section 128745, unless the office determines that an individual
10 patient’s rights of confidentiality would be violated. The office
11 shall make the reports available at cost.

12 ~~SEC. 9. Until the department adopts regulations, the department~~
13 ~~may use the federal Centers for Medicare and Medicaid Services,~~
14 ~~Department of Health and Human Services hospice care regulations~~
15 ~~as contained in Sections 418.3 and 418.52 to 418.116, inclusive,~~
16 ~~of Title 42 of the Code of Federal Regulations, as those provisions~~
17 ~~read on December 31, 2010, as the basis for hospice facility~~
18 ~~licensure.~~

19 *SEC. 12. Section 129725 of the Health and Safety Code is*
20 *amended to read:*

21 129725. (a) (1) “Hospital building” includes any building
22 not specified in subdivision (b) that is used, or designed to be used,
23 for a health facility of a type required to be licensed pursuant to
24 Chapter 2 (commencing with Section 1250) of Division 2.

25 (2) Except as provided in paragraph (7) of subdivision (b),
26 hospital building includes a correctional treatment center, as
27 defined in subdivision (j) of Section 1250, the construction of
28 which was completed on or after March 7, 1973.

29 (b) “Hospital building” does not include any of the following:

30 (1) Any building where outpatient clinical services of a health
31 facility licensed pursuant to Section 1250 are provided that is
32 separated from a building in which hospital services are provided.
33 If any one or more outpatient clinical services in the building
34 provides services to inpatients, the building shall not be included
35 as a “hospital building” if those services provided to inpatients
36 represent no more than 25 percent of the total outpatient services
37 provided at the building. Hospitals shall maintain on an ongoing
38 basis, data on the patients receiving services in these buildings,
39 including the number of patients seen, categorized by their inpatient

1 or outpatient status. Hospitals shall submit this data annually to
2 the State Department of Health Services.

3 (2) Any building used, or designed to be used, for a skilled
4 nursing facility or intermediate care facility if the building is of
5 single-story, wood-frame or light steel frame construction.

6 (3) Any building of single-story, wood-frame or light steel
7 frame construction where only skilled nursing or intermediate care
8 services are provided if the building is separated from a building
9 housing other patients of the health facility receiving higher levels
10 of care.

11 (4) Any freestanding structures of a chemical dependency
12 recovery hospital exempted under subdivision (c) of Section
13 1275.2.

14 (5) Any building licensed to be used as an intermediate care
15 facility/developmentally disabled habilitative with six beds or less
16 and any intermediate care facility/developmentally disabled
17 habilitative of 7 to 15 beds that is a single-story, wood-frame or
18 light steel frame building.

19 (6) Any building subject to licensure as a correctional treatment
20 center, as defined in subdivision (j) of Section 1250, the
21 construction of which was completed prior to March 7, 1973.

22 (7) (A) Any building that meets the definition of a correctional
23 treatment center, pursuant to subdivision (j) of Section 1250, for
24 which the final design documents were completed or the
25 construction of which was begun prior to January 1, 1994, operated
26 by or to be operated by the Department of Corrections, the
27 Department of the Youth Authority, or by a law enforcement
28 agency of a city, county, or a city and county.

29 (B) In the case of reconstruction, alteration, or addition to, the
30 facilities identified in this paragraph, and paragraph (6) or any
31 other building subject to licensure as a general acute care hospital,
32 acute psychiatric hospital, correctional treatment center, or nursing
33 facility, as defined in subdivisions (a), (b), (j), and (k) of Section
34 1250, operated or to be operated by the Department of Corrections,
35 the Department of the Youth Authority, or by a law enforcement
36 agency of a city, county, or city and county, only the
37 reconstruction, alteration, or addition, itself, and not the building
38 as a whole, nor any other aspect thereof, shall be required to
39 comply with this chapter or the regulations adopted pursuant
40 thereto.

1 (8) Any freestanding building used, or designed to be used, as
2 a congregate living health facility, as defined in subdivision (i) of
3 Section 1250.

4 (9) Any freestanding building used, or designed to be used, as
5 a hospice facility, as defined in subdivision (n) of Section 1250.

6 SEC. 13. Section 2.5 of this bill incorporates amendments to
7 Section 1250 of the Health and Safety Code proposed by both this
8 bill and Senate Bill 1228. It shall only become operative if (1) both
9 bills are enacted and become effective on or before January 1,
10 2013, (2) each bill amends Section 1250 of the Health and Safety
11 Code, and (3) this bill is enacted after Senate Bill 1228, in which
12 case Section 2 of this bill shall not become operative.

13 SEC. 14. Section 4.5 of this bill incorporates amendments to
14 Section 1266 of the Health and Safety Code proposed by both this
15 bill and Assembly Bill 1710. It shall only become operative if (1)
16 both bills are enacted and become effective on or before January
17 1, 2013, (2) each bill amends Section 1266 of the Health and Safety
18 Code, and (3) this bill is enacted after Assembly Bill 1710, in which
19 case Section 4 of this bill shall not become operative.

20 ~~SEC. 10.~~

21 SEC. 15. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

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