

Introduced by Senator YeeFebruary 17, 2011

An act to amend Section 1279 of, and to add Section 1280.7 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as introduced, Yee. Health facilities: nurse-to-patient ratios. Existing law provides for the regulation and inspection of health facilities by the State Department of Public Health. Existing law requires the department, with regard to general acute care hospitals, acute psychiatric hospitals, and special hospitals, to adopt regulations that establish certain minimum nurse-to-patient ratios, and requires these health facilities to adopt written policies and procedures for training and orientation of nursing staff. Violation of these provisions is a misdemeanor.

This bill would specifically include an inspection for compliance with the nurse-to-patient ratio requirements within an inspection for compliance with existing regulations. The bill would require an inspection for compliance with a filed plan of correction for a hospital notified of a deficiency in compliance with the nurse-to-patient ratio requirements and would require the imposition of administrative penalties, as specified. It would require the notice of deficiency regarding the nurse-to-patient ratio requirements, as well as an approved plan of correction, to be posted in the nurses' station or designated nurses' area of the unit of the health facility where the deficiency occurred.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1279 of the Health and Safety Code is
2 amended to read:

3 1279. (a) Every health facility for which a license or special
4 permit has been issued shall be periodically inspected by the
5 department, or by another governmental entity under contract with
6 the department. The frequency of inspections shall vary, depending
7 upon the type and complexity of the health facility or special
8 service to be inspected, unless otherwise specified by state or
9 federal law or regulation. The inspection shall include participation
10 by the California Medical Association consistent with the manner
11 in which it participated in inspections, as provided in Section 1282
12 prior to September 15, 1992.

13 (b) Except as provided in subdivision (c), inspections shall be
14 conducted no less than once every two years and as often as
15 necessary to ensure the quality of care being provided.

16 (c) For a health facility specified in subdivision (a), (b), or (f)
17 of Section 1250, inspections shall be conducted no less than once
18 every three years, and as often as necessary to ensure the quality
19 of care being provided.

20 (d) During the inspection, the representative or representatives
21 shall offer such advice and assistance to the health facility as they
22 deem appropriate.

23 (e) For acute care hospitals of 100 beds or more, the inspection
24 team shall include at least a physician, registered nurse, and persons
25 experienced in hospital administration and sanitary inspections.
26 During the inspection, the team shall offer advice and assistance
27 to the hospital as it deems appropriate.

28 (f) The department shall ensure that a periodic inspection
29 conducted pursuant to this section is not announced in advance of
30 the date of inspection. An inspection may be conducted jointly

1 with inspections by entities specified in Section 1282. However,
2 if the department conducts an inspection jointly with an entity
3 specified in Section 1282 that provides notice in advance of the
4 periodic inspection, the department shall conduct an additional
5 periodic inspection that is not announced or noticed to the health
6 facility.

7 (g) Notwithstanding any other ~~provision of law~~, the department
8 shall inspect for compliance with ~~provisions of state law~~, *including,*
9 *but not limited to, Section 1276.4*, and regulations during a state
10 periodic inspection or at the same time as a federal periodic
11 inspection, including, but not limited to, an inspection required
12 under this section. *If a health facility has been notified of a*
13 *deficiency in its compliance with Section 1276.4 and the health*
14 *facility files a plan of correction, the department shall also inspect*
15 *for compliance with this plan of correction.* If the department
16 inspects for compliance with state law and regulations at the same
17 time as a federal periodic inspection, the inspection shall be done
18 consistent with the guidance of the federal Centers for Medicare
19 and Medicaid Services for the federal portion of the inspection.

20 (h) The department shall emphasize consistency across the state
21 and its district offices when conducting licensing and certification
22 surveys and complaint investigations, including the selection of
23 state or federal enforcement remedies in accordance with Section
24 1423. The department may issue federal deficiencies and
25 recommend federal enforcement actions in those circumstances
26 where they provide more rigorous enforcement action.

27 SEC. 2. Section 1280.7 is added to the Health and Safety Code,
28 to read:

29 1280.7. (a) If a health facility has been notified of a deficiency
30 in its compliance with Section 1276.4, the notice of deficiency,
31 along with an approved plan of correction, shall be posted in the
32 nurses' station or designated nurses' area of the unit of the health
33 facility where the deficiency occurred until the department
34 determines that the health facility has complied with the approved
35 plan of correction.

36 (b) (1) Notwithstanding Section 1280.3, the department shall
37 assess an administrative penalty in the amount of ten thousand
38 dollars (\$10,000) for the fourth and for each subsequent violation
39 of Section 1276.4 within a continuous six-month period.

1 (2) Notwithstanding Section 1280.3, and in addition to an
2 administrative penalty assessed pursuant to paragraph (1), the
3 department shall also assess an administrative penalty in the
4 amount of ten thousand dollars (\$10,000) for the failure of a health
5 facility to comply with an approved plan of correction filed with
6 the department in response to a deficiency in compliance with
7 Section 1276.4.

8 (c) Moneys collected by the department as a result of
9 administrative penalties imposed under this section shall be
10 deposited in the Licensing and Certification Program Fund
11 established pursuant to Section 1266.9. These moneys shall be
12 tracked and available for expenditure, upon appropriation by the
13 Legislature, to support internal departmental quality improvement
14 activities.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.