

ASSEMBLY BILL

No. 973

Introduced by Assembly Member Quirk-Silva

February 22, 2013

An act to amend Section 1417.2 of, and to add Section 1417.5 to, the Health and Safety Code, relating to long-term health care facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 973, as introduced, Quirk-Silva. Long-term health facilities: culture change.

Existing law provides for the licensure of long-term health care facilities by the State Department of Public Health. Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, authorizes the department to assess penalties for violation of prescribed requirements and requires the moneys collected as a result of the imposed penalties to be deposited into the State Health Facilities Citation Penalties Account. Existing law provides that moneys derived from civil penalties for violations of federal law shall be deposited into the Federal Health Facilities Citation Penalties Account. Moneys in both accounts are to be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, as specified. Existing law also authorizes the department to use up to \$150,000 of moneys from the Federal Health Facilities Citation Penalties Account for the improvement of quality of care and quality of life for facility residents.

This bill would require moneys from both accounts to be continuously appropriated and used, as specified. By creating a continuously appropriated fund, the bill would make an appropriation. The bill would

authorize the department to use up to \$150,000 of moneys each fiscal year from the State Health Facilities Citation Penalties Account for the improvement of quality of care and quality of life for facility residents, as specified. The bill would require the department to use up to \$250,000 each fiscal year from the Federal Health Facilities Citation Penalties Account for the promotion of culture change and person-centered care, as specified.

This bill would also require the director of the department to contract with a nonprofit community agency, as specified, to act as the Statewide Culture Change Consultant. The bill would require the Statewide Culture Change Consultant to serve long-term health care facilities stakeholders, including, among others, residents and long-term health care facility personnel, to perform a variety of tasks, including serving as the centralized information and technical assistance clearinghouse for best practices in long-term health care facilities for implementing person-centered care and culture change, as defined, and to submit annual reports.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: no.

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) The federal Nursing Home Reform Act allows the federal
- 4 government to issue sanctions against nursing homes that fail to
- 5 comply with federal Medicare and Medicaid quality of care
- 6 requirements.
- 7 (b) Civil money penalties are one of the sanctions established
- 8 by the federal government to encourage nursing homes to comply
- 9 with federal requirements and to prevent poor quality of care.
- 10 (c) The federal government contracts with state licensing and
- 11 certification agencies to inspect nursing homes and to issue civil
- 12 money penalties for violations of federal conditions of
- 13 participation.
- 14 (d) Moneys collected as a result of civil penalties imposed due
- 15 to violations of federal and state statutes are deposited into two
- 16 separate accounts that are established in the Special Deposit Fund
- 17 pursuant to Section 16370 of the Government Code.

1 (e) These civil money penalties offer an opportunity to better
2 the lives of nursing home residents by providing additional
3 resources to the state to improve the quality of care and quality of
4 life for residents.

5 (f) The federal Patient Protection and Affordable Care Act
6 allows a portion of the federal civil money penalty funds to be
7 used to support activities that promote quality of care and the
8 well-being of nursing home residents in certified nursing homes.
9 Specifically, federal regulations allow these funds to be used for
10 the promotion of culture change.

11 SEC. 2. Section 1417.2 of the Health and Safety Code is
12 amended to read:

13 1417.2. (a) Notwithstanding Section 1428, moneys collected
14 as a result of state and federal civil penalties imposed under this
15 chapter or federal law shall be deposited into accounts that are
16 hereby established in the Special Deposit Fund created pursuant
17 to Section 16370 of the Government Code. These accounts are
18 titled the State Health Facilities Citation Penalties Account, into
19 which moneys derived from civil penalties for violations of state
20 law shall be deposited, and the Federal Health Facilities Citation
21 Penalties Account, into which moneys derived from civil penalties
22 for violations of federal law shall be deposited. Moneys from these
23 accounts shall be *continuously appropriated and used*,
24 notwithstanding Section 16370 of the Government Code, ~~upon~~
25 ~~appropriation by the Legislature~~, in accordance with state and
26 federal law for the protection of health or property of residents of
27 long-term health care facilities, including, but not limited to, the
28 following:

29 (1) Relocation expenses incurred by the department, in the event
30 of a facility closure.

31 (2) Maintenance of facility operation pending correction of
32 deficiencies or closure, such as temporary management or
33 receivership, in the event that the revenues of the facility are
34 insufficient.

35 (3) Reimbursing residents for personal funds lost. In the event
36 that the loss is a result of the actions of a long-term health care
37 facility or its employees, the revenues of the facility shall first be
38 used.

39 (4) The costs associated with informational meetings required
40 under Section 1327.2.

1 (5) Support for the Long-Term Care Ombudsman Program
 2 established pursuant to Chapter 11 (commencing with Section
 3 9700) of Division 8.5 of the Welfare and Institutions Code in an
 4 amount appropriated from the State Health Facilities Citation
 5 Penalties Account for this purpose in the annual Budget Act.

6 (b) (1) Notwithstanding subdivision (a), the balance in the
 7 State Health Facilities Citation Penalties Account shall not, at any
 8 time, exceed ten million dollars (\$10,000,000).

9 (2) *Moneys from the State Health Facilities Citation Penalties*
 10 *Account, in the amount not to exceed one hundred fifty thousand*
 11 *dollars (\$150,000) each fiscal year, may be used for specific*
 12 *projects for the improvement of quality of care and quality of life*
 13 *for long-term health care facility residents pursuant to Section*
 14 *1417.3.*

15 (c) ~~Moneys from the Federal Health Facilities Citation Penalties~~
 16 ~~Account, in the amount not to exceed one hundred thirty thousand~~
 17 ~~dollars (\$130,000), may also be used, notwithstanding Section~~
 18 ~~16370 of the Government Code, upon appropriation by the~~
 19 ~~Legislature, in accordance with state and federal law for the~~
 20 ~~improvement of quality of care and quality of life for long-term~~
 21 ~~health care facilities residents pursuant to Section 1417.3~~ *two*
 22 *hundred fifty thousand dollars (\$250,000) each fiscal year, shall*
 23 *be used for the promotion of culture change and person-centered*
 24 *care in the state's long-term health care facilities pursuant to*
 25 *Section 1417.5.*

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

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

39 SEC. 3. Section 1417.5 is added to the Health and Safety Code,
 40 to read:

1 1417.5. (a) The director shall contract with a nonprofit
2 community agency meeting the requirements of this section to act
3 as the Statewide Culture Change Consultant, to be selected through
4 a bid procedure.

5 (b) (1) The Statewide Culture Change Consultant, in
6 consultation with the director, shall serve long-term health care
7 facility stakeholders, including, but not limited to, residents, family
8 members of residents, facility personnel, representatives of
9 long-term health care facilities and facility personnel, long-term
10 health care facility resident advocacy organizations, educational
11 institutions, representatives of state licensing agency personnel,
12 and state ombudsmen.

13 (2) The Statewide Culture Change Consultant shall do all of the
14 following:

15 (A) Serve as the centralized information and technical assistance
16 clearinghouse for the best practices for implementing
17 person-centered care and culture change in long-term health care
18 facilities.

19 (B) Develop and conduct training that is appropriate for a variety
20 of long-term health care facility stakeholders.

21 (C) Assist the director in conducting data collection regarding
22 the impact of culture change best practices on long-term health
23 care facilities and its residents and personnel.

24 (D) Determine the need for, and conduct, conferences for
25 long-term health care facility personnel, residents, families,
26 advocacy organizations, educational institutions, community
27 groups, and the general public, in order to improve the quality of
28 life and resident satisfaction in facilities.

29 (E) Develop training materials, and under the direction of the
30 director, distribute the training materials to appropriate stakeholders
31 and report to the director on their distribution, and when possible,
32 the results of the distribution.

33 (c) In choosing an appropriate nonprofit community agency to
34 act as the Statewide Culture Change Consultant, the director shall
35 give priority to an agency that meets both of the following
36 requirements:

37 (1) The agency that has a proven record of experience in
38 providing information, technical assistance, and direct services to
39 long-term health care facilities and other stakeholders.

1 (2) The agency includes on its board of directors, or advisory
2 council, or both, any of the following persons:

- 3 (A) Residents or family members of residents.
- 4 (B) Personnel and representatives of long-term health care
5 facilities and facility personnel.
- 6 (C) Long-term health care facility resident advocacy
7 organizations.
- 8 (D) Representatives of state licensing agency personnel.
- 9 (E) State ombudsmen.

10 (d) (1) The Statewide Culture Change Consultant shall submit
11 annual progress reports on its activities, as required by the director.
12 These reports shall provide a summary and evaluation of the
13 activities of the organization. The report shall also include all of
14 the following:

- 15 (A) An annual budget that includes the costs of specific
16 programs, services, and materials provided and the overhead costs
17 for providing specific programs, services, and materials.
- 18 (B) Recommendations for improving the effectiveness of the
19 efforts to disseminate the principles of culture change to long-term
20 health care facilities.
- 21 (C) Recommendations for the continued efforts in the subsequent
22 year.

23 (2) It is recognized that in order for the Statewide Culture
24 Change Consultant to conduct the duties specified in this section
25 some portion of the funds will support core operations of the
26 organization, such as staffing salaries and operational expenses.

27 (e) Nothing in this chapter shall prohibit the Statewide Culture
28 Change Consultant from raising additional funding through
29 charitable contributions, fees for conferences and training, and
30 grants made from foundations or other organizations, including
31 other governmental agencies, for the purpose of disseminating the
32 principles of culture change.

33 (f) As used in this section, the following terms have the
34 following meanings:

35 (1) "Culture change" means the national movement for the
36 transformation of older adult services, based on person-centered
37 values and practices where the voices of elders and those working
38 with them are considered and respected. Core person-centered
39 values are choice, dignity, respect, self-determination, and
40 purposeful living, and include all of the following:

- 1 (A) Resident care and activities that are directed by the resident.
- 2 (B) A living environment that is designed to be a home rather
- 3 than an institution.
- 4 (C) Close relationships between residents, family members,
- 5 staff, and community.
- 6 (D) Work that is organized to support and empower all staff to
- 7 respond to residents' needs and desires.
- 8 (E) Management that enables collaborative and decentralized
- 9 decisionmaking.
- 10 (F) Systematic processes that are comprehensive,
- 11 measurement-based, and utilized for continuous quality
- 12 improvement.
- 13 (2) "Person-centered care" means treatment and care that places
- 14 a person at the center of his or her own care and considers the
- 15 needs of the older person. Principles of person-centered care
- 16 include all of the following:
- 17 (A) Sharing power and responsibility with a person in
- 18 decisionmaking about all matters of care and treatment.
- 19 (B) Ensuring that care is delivered in a manner that honors a
- 20 person's customary preferences and routines.
- 21 (C) Ensuring that a person's quality of life is taken into account
- 22 along with quality of care.