

Introduced by Senator BeallFebruary 21, 2014

An act to amend Sections 1255, 1275, and 128740 of, and to add Section 1253.7 to, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1269, as introduced, Beall. General acute care hospitals.

(1) Existing law establishes the State Department of Public health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, general acute care hospitals. A violation of these provisions is a crime.

Existing law authorizes the department to issue a special permit authorizing a health facility to offer one or more special services when specified requirements are met. Existing law provides for the application by general acute care hospitals for supplemental services approval and requires the department to, upon issuance and renewal of a license for certain health facilities, separately identify on the license each supplemental service. Existing law requires a hospital to report specified summary financial and utilization data to the Office of Statewide Health Planning and Development (OSHPD) within 45 days of the end of the every calendar quarter.

This bill would require a general acute care hospital that provides observation services, as defined, to apply for approval from the department to provide these services either as supplemental services or under a special permit.

The bill would require the department to adopt regulations for the provision of observation services under a special permit and as an

approved supplemental service under the general acute care hospital’s license.

The bill would require hospitals to include certain data relating to observation service visits and total observation service gross revenues in the reports filed with OSHPD.

(2) This bill would require the department to adopt and enforce staffing standards for certain outpatient services and all ambulatory surgery centers, as specified, and would make other conforming changes.

(3) Because a violation of these provisions by a health facility would be a crime, the 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 1253.7 is added to the Health and Safety
2 Code, to read:

3 1253.7. (a) For purposes of this chapter, “observation services”
4 means outpatient services provided by a general acute care hospital
5 to those patients described in subdivision (e) who have unstable
6 or uncertain conditions potentially serious enough to warrant close
7 observation, but not so serious as to warrant inpatient admission
8 to the hospital. Observation services may include the use of a bed,
9 monitoring by nursing and other staff, and any other services that
10 are reasonable and necessary to safely evaluate a patient’s condition
11 or determine the need for a possible inpatient admission to the
12 hospital.

13 (b) Observation services may be provided for a period of no
14 more than 24 hours.

15 (c) A general acute care hospital that provides observation
16 services shall do either of the following:

17 (1) Apply for approval from the department, pursuant to
18 subdivision (a) of Section 1253.6, to provide the services as a
19 supplemental service.

1 (2) Apply for a special permit from the department pursuant to
2 subdivision (c) of Section 1277 to provide the services as a special
3 service.

4 (d) The department shall adopt standards and regulations,
5 pursuant to subdivision (a) of Section 1275, for the provision of
6 observation services under a special permit and as a supplemental
7 service under the general acute care hospital's license.

8 (e) Observation services may be ordered by an appropriately
9 licensed practitioner only for any of the following:

10 (1) A patient who has received triage services in the emergency
11 department but has not been admitted as an inpatient.

12 (2) A patient who has received outpatient surgical services and
13 procedures.

14 (3) A patient who has been admitted as an inpatient and is
15 discharged to an observation center.

16 (4) A patient previously seen in a physician's office or outpatient
17 clinic.

18 (f) Notwithstanding subdivisions (d) and (e) of Section 1275,
19 observation services provided by the general acute care hospital,
20 including the services provided in a freestanding physical plant,
21 as defined in subdivision (g) of Section 1275, shall comply with
22 the same staffing standards, including, but not limited to, licensed
23 nurse-to-patient ratios, as supplemental emergency services.

24 (g) A patient receiving observation services shall receive written
25 notice that his or her care is being provided in an outpatient setting,
26 and that this may impact reimbursement by Medicare, Medi-Cal,
27 or private payers of health care services, or cost-sharing
28 arrangements through his or her health care coverage.

29 (h) All areas in which observation services are provided shall
30 be marked by signage identifying the area as an outpatient area.
31 The signage shall use the term "outpatient" in the title of the area
32 to clearly indicate to all patients and family members that the
33 observation services provided in the center are not inpatient
34 services.

35 (i) Observation services shall be deemed outpatient or
36 ambulatory services that are revenue-producing cost centers
37 associated with hospital-based or satellite service locations that
38 emphasize outpatient care. Identifying an observation service by
39 a name or term other than that used in this subdivision does not
40 exempt the general acute care hospital from the requirement of

1 providing observation services as a distinct supplemental service
2 or a distinct special permit service, as applicable.

3 SEC. 2. Section 1255 of the Health and Safety Code is amended
4 to read:

5 1255. (a) In addition to the basic services offered under the
6 license, a general acute care hospital may be approved in
7 accordance with subdivision (c) of Section 1277 to offer special
8 services, including, but not limited to, the following:

9 (1) Radiation therapy department.

10 (2) Burn center.

11 (3) Emergency center.

12 (4) Hemodialysis center (or unit).

13 (5) Psychiatric.

14 (6) Intensive care newborn nursery.

15 (7) Cardiac surgery.

16 (8) Cardiac catheterization laboratory.

17 (9) Renal transplant.

18 (10) *Observation services as defined in Section 1253.7*

19 ~~(10)~~

20 (11) Other special services as the department may prescribe by
21 regulation.

22 (b) A general acute care hospital that exclusively provides acute
23 medical rehabilitation center services may be approved in
24 accordance with subdivision (b) of Section 1277 to offer special
25 services not requiring surgical facilities.

26 (c) The department shall adopt standards for special services
27 and other regulations as may be necessary to implement this
28 section.

29 (d) (1) For cardiac catheterization laboratory service, the
30 department shall, at a minimum, adopt standards and regulations
31 that specify that only diagnostic services, and what diagnostic
32 services, may be offered by a general acute care hospital or a
33 multispecialty clinic as defined in subdivision (l) of Section 1206
34 that is approved to provide cardiac catheterization laboratory
35 service but is not also approved to provide cardiac surgery service,
36 together with the conditions under which the cardiac catheterization
37 laboratory service may be offered.

38 (2) Except as provided in paragraph (3), a cardiac catheterization
39 laboratory service shall be located in a general acute care hospital
40 that is either licensed to perform cardiovascular procedures

1 requiring extracorporeal coronary artery bypass that meets all of
2 the applicable licensing requirements relating to staff, equipment,
3 and space for service, or shall, at a minimum, have a licensed
4 intensive care service and coronary care service and maintain a
5 written agreement for the transfer of patients to a general acute
6 care hospital that is licensed for cardiac surgery or shall be located
7 in a multispecialty clinic as defined in subdivision (I) of Section
8 1206. The transfer agreement shall include protocols that will
9 minimize the need for duplicative cardiac catheterizations at the
10 hospital in which the cardiac surgery is to be performed.

11 (3) Commencing March 1, 2013, a general acute care hospital
12 that has applied for program flexibility on or before July 1, 2012,
13 to expand cardiac catheterization laboratory services may utilize
14 cardiac catheterization space that is in conformance with applicable
15 building code standards, including those promulgated by the Office
16 of Statewide Health Planning and Development, provided that all
17 of the following conditions are met:

18 (A) The expanded laboratory space is located in the building
19 so that the space is connected to the general acute care hospital by
20 an enclosed all-weather passageway that is accessible by staff and
21 patients who are accompanied by staff.

22 (B) The service performs cardiac catheterization services on no
23 more than 25 percent of the hospital's inpatients who need cardiac
24 catheterizations.

25 (C) The service complies with the same policies and procedures
26 approved by hospital medical staff for cardiac catheterization
27 laboratories that are located within the general acute care hospital,
28 and the same standards and regulations prescribed by the
29 department for cardiac catheterization laboratories located inside
30 general acute care hospitals, including, but not limited to,
31 appropriate nurse-to-patient ratios under Section 1276.4, and with
32 all standards and regulations prescribed by the Office of Statewide
33 Health Planning and Development. Emergency regulations
34 allowing a general acute care hospital to operate a cardiac
35 catheterization laboratory service shall be adopted by the
36 department and by the Office of Statewide Health Planning and
37 Development by February 28, 2013.

38 (D) Emergency regulations implementing this paragraph have
39 been adopted by the department and by the Office of Statewide
40 Health Planning and Development by February 28, 2013.

1 (E) This paragraph shall not apply to more than two general
2 acute care hospitals.

3 (4) After March 1, 2014, an acute care hospital may only operate
4 a cardiac catheterization laboratory service pursuant to paragraph
5 (3) if the department and the Office of Statewide Health Planning
6 and Development have adopted regulations in accordance with the
7 requirements of Chapter 3.5 (commencing with Section 11340) of
8 Part 1 of Division 3 of Title 2 of the Government Code that provide
9 adequate protection to patient health and safety including, but not
10 limited to, building standards contained in Part 2.5 (commencing
11 with Section 18901) of Division 13.

12 (5) Notwithstanding Section 129885, cardiac catheterization
13 laboratory services expanded in accordance with paragraph (3)
14 shall be subject to all applicable building standards. The Office of
15 Statewide Health Planning and Development shall review the
16 services for compliance with the OSHPD 3 requirements of the
17 most recent version of the California Building Standards Code.

18 (e) For purposes of this section, “multispecialty clinic,” as
19 defined in subdivision (l) of Section 1206, includes an entity in
20 which the multispecialty clinic holds at least a 50-percent general
21 partner interest and maintains responsibility for the management
22 of the service, if all of the following requirements are met:

23 (1) The multispecialty clinic existed as of March 1, 1983.

24 (2) Prior to March 1, 1985, the multispecialty clinic did not
25 offer cardiac catheterization services, dynamic multiplane imaging,
26 or other types of coronary or similar angiography.

27 (3) The multispecialty clinic creates only one entity that operates
28 its service at one site.

29 (4) These entities shall have the equipment and procedures
30 necessary for the stabilization of patients in emergency situations
31 prior to transfer and patient transfer arrangements in emergency
32 situations that shall be in accordance with the standards established
33 by the Emergency Medical Services Authority, including the
34 availability of comprehensive care and the qualifications of any
35 general acute care hospital expected to provide emergency
36 treatment.

37 (f) Except as provided in this section and in Sections 128525
38 and 128530, under no circumstances shall cardiac catheterizations
39 be performed outside of a general acute care hospital or a

1 multispecialty clinic, as defined in subdivision (l) of Section 1206,
2 that qualifies for this definition as of March 1, 1983.

3 SEC. 3. Section 1275 of the Health and Safety Code is amended
4 to read:

5 1275. (a) The ~~state~~ department shall adopt, amend, or repeal,
6 in accordance with Chapter 3.5 (commencing with Section 11340)
7 of Part 1 of Division 3 of Title 2 of the Government Code and
8 Chapter 4 (commencing with Section 18935) of Part 2.5 of Division
9 13, any reasonable rules and regulations as may be necessary or
10 proper to carry out the purposes and intent of this chapter and to
11 enable the ~~state~~ department to exercise the powers and perform
12 the duties conferred upon it by this chapter, not inconsistent with
13 any statute of this state including, but not limited to, the State
14 Building Standards Law, Part 2.5 (commencing with Section
15 18901) of Division 13.

16 All regulations in effect on December 31, 1973, which were
17 adopted by the State Board of Public Health, the State Department
18 of Public Health, the State Department of Mental Hygiene, or the
19 State Department of Health relating to licensed health facilities
20 shall remain in full force and effect until altered, amended, or
21 repealed by the director or pursuant to Section 25 or other
22 provisions of law.

23 (b) Notwithstanding this section or any other ~~provision of~~ law,
24 the Office of Statewide Health Planning and Development shall
25 adopt and enforce regulations prescribing building standards for
26 the adequacy and safety of health facility physical plants.

27 (c) The building standards adopted by the State Fire Marshal,
28 and the Office of Statewide Health Planning and Development
29 pursuant to subdivision (b), for the adequacy and safety of
30 freestanding physical plants housing outpatient services of a health
31 facility licensed under subdivision (a) or (b) of Section 1250 shall
32 not be more restrictive or comprehensive than the comparable
33 building standards established, or otherwise made applicable, by
34 the State Fire Marshal and the Office of Statewide Health Planning
35 and Development to clinics and other facilities licensed pursuant
36 to Chapter 1 (commencing with Section 1200).

37 (d) Except as provided in subdivision (f), the licensing standards
38 adopted by the ~~state~~ department under subdivision (a) for outpatient
39 services located in a freestanding physical plant of a health facility
40 licensed under subdivision (a) or (b) of Section 1250 shall not be

1 more restrictive or comprehensive than the comparable licensing
2 standards applied by the state department to clinics and other
3 facilities licensed under Chapter 1 (commencing with Section
4 1200).

5 (e) Except as provided in subdivision (f), the state agencies
6 specified in subdivisions (c) and (d) shall not enforce any standard
7 applicable to outpatient services located in a freestanding physical
8 plant of a health facility licensed pursuant to subdivision (a) or (b)
9 of Section 1250, to the extent that the standard is more restrictive
10 or comprehensive than the comparable licensing standards applied
11 to clinics and other facilities licensed under Chapter 1
12 (commencing with Section 1200).

13 (f) All health care professionals providing services in settings
14 authorized by this section shall be members of the organized
15 medical staff of the health facility to the extent medical staff
16 membership would be required for the provision of the services
17 within the health facility. All services shall be provided under the
18 respective responsibilities of the governing body and medical staff
19 of the health facility.

20 (g) For purposes of this section, “freestanding physical plant”
21 means any building which is not physically attached to a building
22 in which inpatient services are provided.

23 (h) *Notwithstanding subdivisions (d) and (e), or any other law,*
24 *the department shall adopt and enforce staffing standards for*
25 *supplemental outpatient surgical services provided in a*
26 *freestanding physical plant of a health facility licensed under*
27 *subdivision (a) of Section 1250 that are consistent with the staffing*
28 *standards for inpatient surgical services and postanesthesia care*
29 *provided in general acute care hospitals and that shall apply when*
30 *the freestanding physical plant provides outpatient services and*
31 *administers anesthesia, except local anesthesia or peripheral nerve*
32 *blocks, or both, in compliance with the community standard of*
33 *practice and in doses that have the probability of placing a patient*
34 *at risk for loss of the patient’s life-preserving protective reflexes.*

35 (i) *Notwithstanding subdivisions (d) and (e), or any other law,*
36 *the department shall adopt and enforce staffing standards for*
37 *supplemental outpatient surgical services of a health facility*
38 *licensed under subdivision (a) of Section 1250 that are consistent*
39 *with the staffing standards for inpatient surgical services and*
40 *postanesthesia care provided in general acute care hospitals and*

1 *that shall apply when anesthesia, except local anesthesia or*
2 *peripheral nerve blocks, or both, is administered in compliance*
3 *with the community standard of practice and in doses that have*
4 *the probability of placing a patient at risk for loss of the patient's*
5 *life-preserving protective reflexes.*

6 *(j) Notwithstanding any other law, the department shall adopt*
7 *and enforce staffing standards for ambulatory surgery centers not*
8 *included in subdivisions (h) and (i) for a health facility licensed*
9 *under subdivision (a) of Section 1250 that are consistent with the*
10 *staffing standards for inpatient surgical services and*
11 *postanesthesia care provided in general acute care hospitals and*
12 *that shall apply when the ambulatory surgery center provides*
13 *outpatient services and administers anesthesia, except local*
14 *anesthesia or peripheral nerve blocks, or both, in compliance with*
15 *the community standard of practice, in doses that have the*
16 *probability of placing a patient at risk for loss of the patient's*
17 *life-preserving protective reflexes.*

18 SEC. 4. Section 128740 of the Health and Safety Code is
19 amended to read:

20 128740. (a) Commencing with the first calendar quarter of
21 1992, the following summary financial and utilization data shall
22 be reported to the office by each hospital within 45 days of the
23 end of every calendar quarter. Adjusted reports reflecting changes
24 as a result of audited financial statements may be filed within four
25 months of the close of the hospital's fiscal or calendar year. The
26 quarterly summary financial and utilization data shall conform to
27 the uniform description of accounts as contained in the Accounting
28 and Reporting Manual for California Hospitals and shall include
29 all of the following:

- 30 (1) Number of licensed beds.
- 31 (2) Average number of available beds.
- 32 (3) Average number of staffed beds.
- 33 (4) Number of discharges.
- 34 (5) Number of inpatient days.
- 35 (6) Number of outpatient visits, *excluding observation service*
36 *visits.*
- 37 (7) *Number of observation service visits and number of hours*
38 *of services provided.*
- 39 (~~7~~)
- 40 (8) Total operating expenses.

- 1 ~~(8)~~
- 2 (9) Total inpatient gross revenues by payer, including Medicare,
- 3 Medi-Cal, county indigent programs, other third parties, and other
- 4 payers.
- 5 ~~(9)~~
- 6 (10) Total outpatient gross revenues by payer, including
- 7 Medicare, Medi-Cal, county indigent programs, other third parties,
- 8 and other payers.
- 9 (11) *Total observation service gross revenues by payer,*
- 10 *including Medicare, Medi-Cal, county indigent programs, other*
- 11 *third parties, and other payers.*
- 12 ~~(10)~~
- 13 (12) Deductions from revenue in total and by component,
- 14 including the following: Medicare contractual adjustments,
- 15 Medi-Cal contractual adjustments, and county indigent program
- 16 contractual adjustments, other contractual adjustments, bad debts,
- 17 charity care, restricted donations and subsidies for indigents,
- 18 support for clinical teaching, teaching allowances, and other
- 19 deductions.
- 20 ~~(11)~~
- 21 (13) Total capital expenditures.
- 22 ~~(12)~~
- 23 (14) Total net fixed assets.
- 24 ~~(13)~~
- 25 (15) Total number of inpatient days, outpatient visits, *excluding*
- 26 *outpatient service visits*, and discharges by payer, including
- 27 Medicare, Medi-Cal, county indigent programs, other third parties,
- 28 self-pay, charity, and other payers.
- 29 ~~(14)~~
- 30 (16) Total net patient revenues by payer including Medicare,
- 31 Medi-Cal, county indigent programs, other third parties, and other
- 32 payers.
- 33 ~~(15)~~
- 34 (17) Other operating revenue.
- 35 ~~(16)~~
- 36 (18) Nonoperating revenue net of nonoperating expenses.
- 37 (b) Hospitals reporting pursuant to subdivision (d) of Section
- 38 128760 may provide the items in paragraphs ~~(7), (8), (9), (10),~~
- 39 ~~(14), (15), and (16)~~(8), (9), (10), (12), (16), (17), and (18) of

1 subdivision (a) on a group basis, as described in subdivision (d)
2 of Section 128760.

3 (c) The office shall make available at cost, to any person, a hard
4 copy of any hospital report made pursuant to this section and in
5 addition to hard copies, shall make available at cost, a computer
6 tape of all reports made pursuant to this section within 105 days
7 of the end of every calendar quarter.

8 (d) The office shall adopt by regulation guidelines for the
9 identification, assessment, and reporting of charity care services.
10 In establishing the guidelines, the office shall consider the
11 principles and practices recommended by professional health care
12 industry accounting associations for differentiating between charity
13 services and bad debts. The office shall further conduct the onsite
14 validations of health facility accounting and reporting procedures
15 and records as are necessary to assure that reported data are
16 consistent with regulatory guidelines.

17 ~~This section shall become operative January 1, 1992.~~

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.