

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 614

Introduced by Assembly Member Brown

February 24, 2015

An act to amend Section 1275 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 614, as amended, Brown. Health care standards of practice.

Existing law authorizes the State Department of Public Health to promulgate rules and regulations regarding health facilities, in accordance with the provisions of the Administrative Procedure Act.

This bill would authorize the department to use a streamlined administrative process to update regulatory references to health care standards of practice adopted by a state or national association when outdated standards are already referenced in the California Code of Regulations. The procedure created by this bill would, among other things, require the department to post the update on the department's Internet Web site, notify stakeholders of the proposed change, *submit notice of the proposed change to the Office of Administrative Law for publication in the California Regulatory Notice Register*, accept comments, and consider those comments prior to the adoption of the new regulations. ~~This standards.~~ The bill would require, if a member of the public requests a public hearing, that the department hold a hearing and consider any comments. ~~This~~ The bill would, if comments are submitted in opposition to the proposed change, require the department to instead follow the procedures provided for by the Administrative Procedure Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1275 of the Health and Safety Code is
2 amended to read:
3 1275. (a) (1) The department shall adopt, amend, or repeal,
4 in accordance with Chapter 3.5 (commencing with Section 11340)
5 of Part 1 of Division 3 of Title 2 of the Government Code and
6 Chapter 4 (commencing with Section 18935) of Part 2.5 of Division
7 13, any reasonable rules and regulations as may be necessary or
8 proper to carry out the purposes and intent of this chapter and to
9 enable the state department to exercise the powers and perform
10 the duties conferred upon it by this chapter, not inconsistent with
11 any other law including, but not limited to, the California Building
12 Standards Law, Part 2.5 (commencing with Section 18901) of
13 Division 13.
14 (2) All regulations in effect on December 31, 1973, which were
15 adopted by the State Board of Public Health, the State Department
16 of Public Health, the State Department of Mental Hygiene, or the
17 State Department of Health relating to licensed health facilities
18 shall remain in full force and effect until altered, amended, or
19 repealed by the director or pursuant to Section 25 or other
20 provisions of law.
21 (b) Notwithstanding this section or any other law, the Office of
22 Statewide Health Planning and Development shall adopt and
23 enforce regulations prescribing building standards for the adequacy
24 and safety of health facility physical plants.
25 (c) The building standards adopted by the State Fire Marshal,
26 and the Office of Statewide Health Planning and Development
27 pursuant to subdivision (b), for the adequacy and safety of
28 freestanding physical plants housing outpatient services of a health
29 facility licensed under subdivision (a) or (b) of Section 1250 shall
30 not be more restrictive or comprehensive than the comparable
31 building standards established, or otherwise made applicable, by
32 the State Fire Marshal and the Office of Statewide Health Planning
33 and Development to clinics and other facilities licensed pursuant
34 to Chapter 1 (commencing with Section 1200).

1 (d) Except as provided in subdivision (f), the licensing standards
2 adopted by the department under subdivision (a) for outpatient
3 services located in a freestanding physical plant of a health facility
4 licensed under subdivision (a) or (b) of Section 1250 shall not be
5 more restrictive or comprehensive than the comparable licensing
6 standards applied by the department to clinics and other facilities
7 licensed under Chapter 1 (commencing with Section 1200).

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

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

23 (g) (1) Notwithstanding any other law, the department may,
24 without taking regulatory action pursuant to Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code, update references in the California
27 Code of Regulations to health care standards of practice adopted
28 by a recognized state or national association when the state or
29 national association and its outdated standards are already named
30 in the California Code of Regulations. When updating these
31 references, the department shall:

32 ~~(A) Post the name of the state or national association, the title~~
33 ~~of the health care standards of practice, and the version of the~~
34 ~~updated health care standards of practice to be adopted on the~~
35 ~~department's Internet Web site.~~

36 ~~(B)~~

37 (A) Post notice of the department's proposed adoption of the
38 state or national association's health care standards of practice on
39 its Internet Web site for at least 45 days. *The notice shall include*
40 *the name of the state or national association, the title of the health*

1 *care standards of practice, and the version of the updated health*
 2 *care standards of practice to be adopted.*

3 ~~(E)~~

4 (B) Notify stakeholders that the proposed standards have been
 5 posted on the department’s Internet Web site by issuing a mailing
 6 to the most recent stakeholder list on file with the department’s
 7 Office of Regulations.

8 (C) *Submit to the Office of Administrative Law the notice*
 9 *required pursuant to this paragraph. The office shall publish in*
 10 *the California Regulatory Notice Register any notice received*
 11 *pursuant to this subparagraph.*

12 (D) Accept public comment for at least 30 days after the
 13 conclusion of the 45-day posting period specified in subparagraph
 14 ~~(B)~~: (A).

15 (2) If a member of the public requests a public hearing during
 16 the public comment period, a hearing shall be held and comments
 17 shall be considered prior to the adoption of the state or national
 18 association’s health care standards of practice.

19 (3) If no member of the public requests a public hearing, the
 20 department shall consider any comments received during the public
 21 comment period prior to the adoption of the health care standards.

22 (4) Written responses to public comments shall not be required.
 23 If public comments are submitted in opposition to the adoption of
 24 the proposed standards, *or the state or national association named*
 25 *in the California Code of Regulations no longer exists*, the
 26 department shall seek adoption of the standards using the regulatory
 27 process specified in Chapter 3.5 (commencing with Section 11340)
 28 of Part 1 of Division 3 of Title 2 of the Government Code. *A state*
 29 *or national association named in the California Code of*
 30 *Regulations that has changed its name does not constitute an*
 31 *association that no longer exists.*

32 (5) *If no opposition is received by the department, the*
 33 *department shall update its Internet Web site to notify the public*
 34 *that the standard has been adopted and the effective date of that*
 35 *standard.*

36 (h) For purposes of this section, “freestanding physical plant”
 37 means any building which is not physically attached to a building
 38 in which inpatient services are provided.

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