

ASSEMBLY BILL

No. 1147

Introduced by Assembly Member Maienschein

February 27, 2015

An act to amend Sections 1760.2 and 1760.4 of, and to add Sections 1760.7, 1760.9, 1761.85, 1762, 1762.2, 1762.4, 1762.6, 1762.8, 1763, 1763.2, and 1763.4 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as introduced, Maienschein. Health facilities: pediatric day health and respite care facilities.

Under existing law, the State Department of Public Health licenses and regulates health facilities, including, among others, pediatric day health and respite care facilities. Existing law defines “pediatric day health and respite care facility” as a facility that provides an organized program of therapeutic social and day health activities and services and limited 24-hour inpatient respite care to medically fragile children 21 years of age or younger, including terminally ill and technology dependent children.

This bill would authorize an individual who is 22 years of age or older to continue to receive care in a pediatric day health and respite care facility, if the facility receives approval from the department for a Transitional Health Care Needs Optional Service Unit. The bill would establish a licensing process for a pediatric day health and respite care facility to operate an optional service unit, and would impose certain requirements on those optional service units, including, among others, that the optional service unit provide care for clients who are 22 years of age or older in a distinct part of the pediatric day health and respite

care facility or optional service unit, separate from the area where care is provided to younger clients.

This bill would authorize a pediatric day health and respite care facility to implement policies and procedures that prohibit smoking by clients, parents, staff, visitors, or consultants within the facility or on the premises, if the prohibition is clearly stated in the admission agreement, and notices are posted at the facility.

This bill would establish procedures for the issuance of a provisional license to a pediatric day health and respite care facility. The bill would specify additional procedures relating to the licensure of a pediatric day health and respite care facility, and renewals of those licenses, including, among others, requiring the department to initiate an initial licensing inspection within 60 days of receipt of a pediatric day health and respite care facility's completed application and requiring periodic inspections by a duly authorized representative of the department and specified reports related to those inspections. The bill would authorize the department to make reasonable accommodation for exceptions to the licensing standards if the health, safety, and quality of patient care is not compromised. The bill would also specify the grounds upon which those licenses may be revoked, including, among others, willful omission or falsification of a material fact in the application for a license. The bill would require proceedings for the denial, suspension, or revocation of licenses, or denial or withdrawal of approval, to be conducted in accordance with specified provisions of law.

Existing law requires facilities serving persons who are terminally ill, catastrophically and severely disabled, mentally alert but physically disabled, or any combination of these persons, to comply with specified provisions of the California Code of Regulations, and exempts those facilities from certain requirements of that code relating to required services for skilled nursing facilities.

This bill would provide additional exemptions from that code for a pediatric day health and respite care facility.

Existing law specifies the services that a pediatric day health and respite care facility is required to provide, including, among others, pharmacy services.

This bill would require that pharmacy services by a pediatric day health and respite care facility satisfy certain requirements, including, among others, that medications be administered only upon written and signed orders of the child's attending physician.

This bill would require a pediatric day health and respite care facility to have a patient care committee to address quality of care provided in the facility, including, but not limited to, patient care policies, pharmacy services, and infection control. The bill would specify the composition of the committee, impose specified meeting requirements, and outline the committee’s responsibilities.

Existing law requires pediatric day health and respite care facilities to meet the same fire safety standards adopted by the State Fire Marshal and the same seismic safety standards that apply to community care facilities. Existing law provides that a pediatric day health and respite care is not subject to architectural plan review or field inspection by the Office of Statewide Health Planning and Development, and requires, as part of the application for licensure, an applicant to submit evidence of compliance with local building code requirements and that the physical environment is adequate to provide the level of care and service required by the clients of the facility as determined by the department.

This bill would provide that those provisions do not prohibit the use of alternate space utilization, new concepts of design, treatment techniques, equipment and alternate finish materials, or other flexibility, if written approval is granted by the local building authority.

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 1760.2 of the Health and Safety Code is
- 2 amended to read:
- 3 1760.2. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) (1) “Pediatric day health and respite care facility” means
- 6 a facility ~~which~~ *that* provides an organized program of therapeutic
- 7 social and day health activities and services and limited 24-hour
- 8 inpatient respite care to medically fragile children 21 years of age
- 9 or younger, including terminally ill and technology dependent
- 10 children.
- 11 (2) *An individual who is 22 years of age or older may continue*
- 12 *to receive care in a pediatric day health and respite care facility*
- 13 *if the facility receives approval from the state department for a*
- 14 *Transitional Health Care Needs Optional Service Unit pursuant*
- 15 *to Section 1763.4.*

1 (b) “Medically fragile” means having an acute or chronic health
2 problem ~~which~~ *that* requires therapeutic intervention and skilled
3 nursing care during all or part of the day. Medically fragile
4 problems include, but are not limited to, HIV disease, severe lung
5 disease requiring oxygen, severe lung disease requiring ventilator
6 or tracheostomy care, complicated spina bifida, heart disease,
7 malignancy, asthmatic exacerbations, cystic fibrosis exacerbations,
8 neuromuscular disease, encephalopathies, and seizure disorders.

9 (c) “Technology-dependent child” means a person from birth
10 through 21 years of age who has a chronic disability, requires the
11 routine use of a specific medical device to compensate for the loss
12 of use of a life sustaining body function, and requires daily,
13 ongoing care or monitoring by trained personnel.

14 (d) “Respite care” means day and 24-hour relief for the parent
15 or guardian and care for the child. ~~Twenty-four hour~~ *24-hour*
16 inpatient respite care includes, but is not limited to, 24-hour nursing
17 care, meals, socialization, and developmentally appropriate
18 activities. As used in this chapter, “24-hour inpatient respite care”
19 is limited to no more than 30 intermittent or continuous *whole*
20 *calendar* days per patient per calendar year.

21 (e) “Comprehensive case management” means locating,
22 coordinating, and monitoring services for the eligible client
23 population and includes all of the following:

24 (1) Screening of client referrals to identify those persons who
25 can benefit from the available services.

26 (2) Comprehensive client assessment to determine the services
27 needed.

28 (3) Coordinating the development of an interdisciplinary
29 comprehensive care plan.

30 (4) Determining individual case cost effectiveness and available
31 sources of funding.

32 (5) Identifying and maximizing informal sources of care.

33 (6) Ongoing monitoring of service delivery to determine the
34 optimum type, amount, and duration of services provided.

35 (f) “License” means a basic permit to operate a pediatric day
36 health and respite care facility. With respect to a health facility
37 licensed pursuant to Chapter 2 (commencing with Section 1250),
38 “license” means a special permit authorizing the health facility to
39 provide pediatric day health and respite care services as a separate
40 program in a distinct part of the facility.

1 (g) “State department” means the ~~State Department of Health~~
2 ~~Services~~. *State Department of Public Health*.

3 SEC. 2. Section 1760.4 of the Health and Safety Code is
4 amended to read:

5 1760.4. (a) The state department shall develop and adopt
6 regulations for the licensure of, and shall license, pediatric day
7 health and respite care facilities. The regulations shall include
8 minimum standards for the following:

9 (1) Adequacy, safety, and sanitation of the physical plant and
10 equipment.

11 (2) Staffing with duly qualified personnel.

12 (3) Training of the staff.

13 (4) Providing the services offered.

14 These regulations shall be filed with the Secretary of State no
15 later than July 1, 1993.

16 (b) The state department shall establish within the state
17 department an advisory committee of experts to assist in the
18 development of the regulations required pursuant to this section.
19 A representative of the state department shall act as chairperson
20 of the committee. The members of the committee shall serve
21 without compensation, but shall be reimbursed by the state
22 department for all necessary expenses incurred in the actual
23 performance of their duties. To the extent sufficient funds have
24 been appropriated in the Budget Act, the state department may
25 provide staff support to the committee as the state department
26 deems is necessary for the conduct of the committee’s business.
27 The committee shall meet at the state director’s pleasure until the
28 time that the proposed regulations are presented for adoption at
29 the public hearing.

30 (c) Pending adoption of the regulations pursuant to subdivision
31 (b), an entity may be licensed as a pediatric day health and respite
32 care facility if it meets interim regulations administered by the
33 state department for congregate living health facilities pursuant to
34 Section 1267.13.

35 (d) (1) *In addition to the exceptions from regulations described*
36 *in subdivision (n) of Section 1267.13, a pediatric day health and*
37 *respite care facility shall not be required to conform to the*
38 *following regulations contained in Chapter 3 of Division 5 of Title*
39 *22 of the California Code of Regulations: 72329.1, 72353, 72359,*

1 72363, 72365, 72371, subdivisions (b) and (c) of Section 72375,
2 subdivision (b) of Section 72377, 72516, 72525, and 72531.

3 (2) A pediatric day health and respite care facility shall not be
4 required to meet the requirements of Section 72367 of Article 3 of
5 Chapter 3 of Division 5 of Title 22 of the California Code of
6 Regulations, except that medications brought by or with the patient
7 on admission to the facility shall not be used unless, after admission
8 by the facility, the contents of the containers have been examined
9 and positively identified.

10 (e) A pediatric day health and respite care facility shall have a
11 patient care committee to address quality of care provided in the
12 facility, including, but not limited to, patient care policies,
13 pharmacy services, and infection control.

14 (1) The pediatric day health and respite care facility shall
15 maintain minutes of every committee meeting and indicate the
16 names of members present, the date, the length of the meeting, the
17 subject matter discussed, and any action taken.

18 (2) The patient care committee shall include the medical
19 director, dietician, pharmacist, nursing staff, nurse supervisor,
20 center administrator or director, and other staff as may be required
21 by facility policies and procedures.

22 (3) The patient care committee shall meet at least twice per
23 year, or more often if a need or problem is identified by the
24 committee.

25 (4) The patient care committee shall be responsible for all of
26 the following:

27 (A) Reviewing and approving all policies relating to patient
28 care. Based on reports received from the pediatric day health and
29 respite care facility's administrator, the committee shall review
30 the effectiveness of policy implementation and shall make
31 recommendations to the administrator of the facility for the
32 improvement of patient care. The committee shall review patient
33 care policies annually and revise the policies as necessary. The
34 committee's minutes shall list the policies the committee reviewed.

35 (B) Infection control in the facility, which shall include, but not
36 be limited to, establishing, reviewing, monitoring, and approving
37 policies and procedures for investigating, controlling, and
38 preventing infections in the facility, and maintaining, reviewing,
39 and reporting statistics of the number, types, sources, and locations

1 of infections within the pediatric day health and respite care
2 facility.

3 (C) Establishing, reviewing, and monitoring the storage and
4 administration of drugs and biologicals, reviewing and taking
5 appropriate action based on any findings from a pharmacist hired
6 to consult with the committee and internal quality assurance
7 reviews, and recommending improvements of services to the
8 administrator of the facility.

9 (f) (1) A pediatric day health and respite care facility shall
10 comply with licensing requirements. The state department may,
11 upon written request of an applicant or licensee, approve the use
12 of alternate concepts, methods, procedures, techniques, equipment,
13 personnel qualifications, or conducting pilot projects, provided
14 those alternatives are carried out with safe and adequate care for
15 the patients and with the prior written approval of the state
16 department. The state department's approval shall provide for the
17 terms and conditions under which the alternatives are granted.
18 An applicant's or licensee's written request shall be accompanied
19 by substantiating evidence supporting the request pursuant to this
20 paragraph.

21 (2) The state department's review of written requests submitted
22 under this subdivision shall consider the unique nature of services
23 provided to individuals served by the pediatric day health and
24 respite care facility when compared to the requirements for
25 congregate living health facilities for individuals requiring
26 inpatient care.

27 (3) If the state department grants an approval under this
28 subdivision, a pediatric day health and respite care facility shall
29 immediately post that approval, or a true copy of that approval,
30 adjacent to the facility's license.

31 SEC. 3. Section 1760.7 is added to the Health and Safety Code,
32 to read:

33 1760.7. A pediatric day health and respite care facility shall
34 provide pharmacy services that satisfy all of the following:

35 (a) (1) Medications shall be supplied to the licensed nursing
36 personnel of the pediatric day health and respite care facility by
37 the child's parent, foster parent, or legal guardian in the original
38 dispensing container that specifies administration instructions.

39 (2) Medications shall be administered only upon written and
40 signed orders of the child's attending physician.

1 (3) The pediatric day health and respite care facility shall not
2 order medications from a pharmacy or take delivery of medications
3 from a pharmacy.

4 (4) The pediatric day health and respite care facility shall not
5 accept a child into the facility if the child’s medications have
6 expired or are scheduled to expire during the child’s stay at the
7 facility.

8 (b) (1) Physician orders shall be current and maintained in the
9 child’s medical record at the pediatric day health and respite care
10 facility. Verbal orders from the attending physician for services
11 to be rendered at the facility may be received and recorded by
12 licensed nursing personnel in the child’s medical record at the
13 facility and shall be signed by the attending physician within 30
14 working days.

15 (2) Medications shall not be administered to a child unless the
16 facility first verifies that the medication was ordered by a physician.
17 Verification may be obtained by contacting the physician’s office
18 or by being provided with a copy of the physician’s order for the
19 medication.

20 (c) The pediatric day health and respite care facility shall
21 maintain records of medication administered for at least one year,
22 unless a longer period is required by state or federal law. The
23 records of medication administered shall be a part of the child’s
24 plan of care.

25 (d) The pediatric day health and respite care facility may treat
26 changes in the child’s condition, such as new onset pain, nausea,
27 diarrhea, infections, or other similar changes, in accordance with
28 the child’s plan of care if the child has been prescribed medications
29 to treat these anticipated symptoms, and does not present a risk to
30 the health and safety of themselves, other children, staff, or other
31 individuals with whom the child may come into contact. Children
32 who present with symptoms that are not anticipated or planned for
33 in the plan of care shall not remain in the facility.

34 (e) Other requirements as specified in subdivision (a) of Section
35 72375, and subdivision (a) of Section 72377, of Article 3 of
36 Chapter 3 of Division 5 of Title 22 of the California Code of
37 Regulations.

38 SEC. 4. Section 1760.9 is added to the Health and Safety Code,
39 to read:

1 1760.9. A pediatric day health and respite care facility may
2 implement policies and procedures that prohibit smoking by clients,
3 parents, staff, visitors, or consultants within the facility or on the
4 premises, if the prohibition is clearly stated in the admission
5 agreement, and notices are posted at the facility.

6 SEC. 5. Section 1761.85 is added to the Health and Safety
7 Code, to read:

8 1761.85. Sections 1761.2, 1761.4, and 1761.8 do not prohibit
9 the use of alternate space utilization, new concepts of design,
10 treatment techniques, equipment and alternate finish materials, or
11 other flexibility, if written approval is granted by the local building
12 authority.

13 SEC. 6. Section 1762 is added to the Health and Safety Code,
14 to read:

15 1762. (a) In order to obtain a license under the provisions of
16 this chapter to establish, conduct, or maintain a pediatric day health
17 and respite care facility, a person, entity, political subdivision of
18 the state, or governmental agency shall file with the state
19 department a verified application on a form prescribed, prepared,
20 and furnished by the state department, containing information as
21 may be required by the state department for the proper
22 administration and enforcement of this chapter.

23 (b) The state department shall initiate an initial licensing
24 inspection within 60 days of receipt of a completed application.

25 SEC. 7. Section 1762.2 is added to the Health and Safety Code,
26 to read:

27 1762.2. (a) If a pediatric day health and respite care facility
28 or an applicant for a license has not been previously licensed, the
29 state department shall issue a provisional license to the facility
30 only as provided in this section.

31 (b) A provisional license to operate a pediatric day health and
32 respite care facility shall terminate six months from the date of
33 issuance, or the date that the state department is able to conduct a
34 full and complete inspection, whichever is later.

35 (c) Within 30 days prior to the termination of a provisional
36 license, the state department shall give the facility a full and
37 complete inspection, and, if the facility meets all applicable
38 requirements for licensure, a regular license shall be issued. If the
39 facility does not meet the requirements for licensure but has made
40 substantial progress towards meeting the requirements, as

1 determined by the state department, the initial provisional license
2 shall be renewed for six months.

3 (d) If the state department determines that there has not been
4 substantial progress towards meeting licensure requirements at the
5 time of the first full inspection provided by this section, or, if the
6 state department determines upon its inspection made within 30
7 days of the termination of a renewed provisional license that there
8 is lack of full compliance with the requirements, the state
9 department shall not issue a further license.

10 (e) If an applicant for a provisional license to operate a pediatric
11 day health and respite care facility has been denied provisional
12 licensing by the state department, the applicant may contest the
13 denial by filing a request for a hearing pursuant to Section 131071.

14 (f) The state department shall not apply less stringent criteria
15 when granting a provisional license pursuant to this section than
16 it applies when granting a permanent license.

17 SEC. 8. Section 1762.4 is added to the Health and Safety Code,
18 to read:

19 1762.4. (a) A license issued under this chapter shall expire 12
20 months from the date of its issuance. The licensee shall pay a fee,
21 not to exceed the reasonable regulatory cost to the state department,
22 to the state department annually, not less than 30 days prior to
23 expiration date, subject to the state department mailing the notice
24 of renewal in accordance with subdivision (b).

25 (b) (1) At least 45 days prior to the expiration of a license issued
26 pursuant to this chapter, the state department shall mail a notice
27 for renewal to the licensee.

28 (2) A license renewal shall be submitted with the necessary fee
29 in accordance with subdivision (a). A license shall be deemed
30 renewed upon payment of the necessary fee, commencing from
31 the license’s expiration date. If the requirements of this section
32 are satisfied, the state department shall issue a license to the facility
33 by the expiration date of the license to ensure the provider remains
34 in good standing. The facility’s license shall be mailed within 15
35 calendar days after the date the state department receives the
36 renewal fee.

37 SEC. 9. Section 1762.6 is added to the Health and Safety Code,
38 to read:

39 1762.6. Every pediatric day health and respite care facility for
40 which a license has been issued shall be periodically inspected by

1 a duly authorized representative of the state department. Reports
2 of each inspection shall be prepared by the representative upon
3 forms prepared and furnished by the state department and filed
4 with the state department. The inspection shall be for the purpose
5 of ensuring that the pediatric day health and respite care facility
6 is complying with the provisions of this chapter and the rules and
7 regulations of the state department.

8 SEC. 10. Section 1762.8 is added to the Health and Safety
9 Code, to read:

10 1762.8. The state department may deny an application for, or
11 suspend or revoke a license issued under the provisions of this
12 chapter in the manner provided in Section 1763 upon any of the
13 following grounds:

14 (a) A serious violation by the licensee of any of the provisions
15 of this chapter, of any other law, or of the rules and regulations
16 promulgated under this chapter that jeopardizes the health and
17 safety of clients.

18 (b) Aiding, abetting, or permitting the commission of any illegal
19 act.

20 (c) Willful omission or falsification of a material fact in the
21 application for a license.

22 SEC. 11. Section 1763 is added to the Health and Safety Code,
23 to read:

24 1763. Proceedings for the denial, suspension, or revocation of
25 licenses, or denial or withdrawal of approval under this chapter
26 shall be conducted in accordance with Section 131071. The
27 suspension, expiration, or forfeiture by operation of law of a license
28 issued by the state department, its suspension, forfeiture, or
29 cancellation by order of the state department or by order of a court,
30 or its surrender without the written consent of the state department,
31 shall not deprive the state department of its authority to institute
32 or continue a disciplinary proceeding against the licensee upon
33 any ground provided by law or to enter an order suspending or
34 revoking the license or otherwise taking disciplinary action against
35 the licensee on any of those grounds.

36 SEC. 12. Section 1763.2 is added to the Health and Safety
37 Code, to read:

38 1763.2. The state department has authority to make reasonable
39 accommodation for exceptions to the standards in this chapter if
40 the health, safety, and quality of patient care is not compromised.

1 Prior written approval communicating the terms and conditions
2 under which the exception is granted shall be required. An
3 applicant shall request an exception in writing accompanied by
4 detailed supporting documentation.

5 SEC. 13. Section 1763.4 is added to the Health and Safety
6 Code, to read:

7 1763.4. (a) For purposes of this chapter, “Transitional Health
8 Care Needs Optional Service Unit” or “optional service unit”
9 means a functional unit of a pediatric day health and respite care
10 facility that is organized, staffed, and equipped to provide care to
11 individuals who are 22 years of age or older.

12 (1) The age of older clients receiving care in the optional service
13 unit shall be in age-appropriate groupings as provided for in the
14 pediatric day health and respite care facility’s policies and
15 procedures. Older adolescents under the age of 22 are not precluded
16 from being cared for in the same optional service unit as the
17 younger adults. A pediatric day health and respite care facility is
18 not required to operate an optional service unit.

19 (2) In order to continue receiving care in the pediatric day health
20 and respite care facility, participants who are 22 years of age or
21 older shall have a developmental age of 18 years of age or younger,
22 as evidenced by the client’s Individual Education Plan (IEP),
23 Regional Center Assessment, physician’s assessment, or other
24 assessment using a standardized assessment tool that is
25 nationally-recognized in the field.

26 (b) An optional service unit shall be approved by the state
27 department. A pediatric day health and respite care facility desiring
28 approval for an optional service unit shall file an application on
29 forms furnished by the state department. The state department shall
30 list on the facility license each optional service for which approval
31 is granted.

32 (c) Care for clients who are 22 years of age or older shall be
33 provided in a distinct part of the pediatric day health and respite
34 care facility or optional service unit, separate from the area where
35 care is provided to younger clients. The facility shall establish and
36 implement policies and procedures for determining the age ranges
37 of clients who are cared for in the optional service unit. These
38 policies and procedures shall include, but not be limited to,
39 consideration of the client’s chronological age, developmental age,
40 and size.

1 (d) The pediatric day health and respite care facility shall ensure
2 that its staffing and equipment are sufficient to provide services
3 to clients who are 22 years of age or older.

4 (e) A Transitional Health Care Needs Optional Service Unit
5 shall have written policies and procedures for the management of
6 the service. The policies and procedures shall be established and
7 implemented by the patient care policy committee described in
8 Section 1760.4

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