

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1211**

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**Introduced by Assembly Member Maienschein**

February 27, 2015

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An act to amend Section ~~1569.156~~ 1250 of the Health and Safety Code, relating to ~~residential care facilities for the elderly~~ *health facilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1211, as amended, Maienschein. ~~Residential care facilities for the elderly:~~ *Health care facilities: congregate living health facility.*

*Existing law provides for the licensure and regulation by the State Department of Public Health of health facilities, including congregate living health facilities. A violation of these provisions is a misdemeanor. For this purpose, existing law defines "congregate living health facility" as a residential home with a capacity of no more than 12 beds, that provides inpatient care and skilled nursing care on a recurring, intermittent, extended, or continuous basis.*

*This bill would include in the definition of congregate living health facility a residential home with a capacity of no more than 18 beds that provides inpatient and skilled nursing care, as specified. By increasing the definition of a crime, 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.*

~~Existing law provides for the licensure of residential care facilities for the elderly by the State Department of Social Services. Existing law requires a residential care facility for the elderly to take certain actions with respect to advance directives, including providing written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives and not conditioning the provision of care or otherwise discriminating based on whether or not an individual has executed an advance directive. Existing law defines advance directive, for this purpose, to include advance health care directives or some other form of instruction recognized under state law specifically addressing the provision of health care. Violation of these provisions is a crime.~~

~~This bill would specifically include in the definition of advance directive a request regarding resuscitative measures, as defined. By expanding the definition of a crime, 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 1250 of the Health and Safety Code is
- 2     amended to read:
- 3     1250. As used in this chapter, “health facility” means a facility,
- 4     place, or building that is organized, maintained, and operated for
- 5     the diagnosis, care, prevention, and treatment of human illness,
- 6     physical or mental, including convalescence and rehabilitation and
- 7     including care during and after pregnancy, or for any one or more
- 8     of these purposes, for one or more persons, to which the persons
- 9     are admitted for a 24-hour stay or longer, and includes the
- 10    following types:
- 11    (a) “General acute care hospital” means a health facility having
- 12    a duly constituted governing body with overall administrative and
- 13    professional responsibility and an organized medical staff that

1 provides 24-hour inpatient care, including the following basic  
2 services: medical, nursing, surgical, anesthesia, laboratory,  
3 radiology, pharmacy, and dietary services. A general acute care  
4 hospital may include more than one physical plant maintained and  
5 operated on separate premises as provided in Section 1250.8. A  
6 general acute care hospital that exclusively provides acute medical  
7 rehabilitation center services, including at least physical therapy,  
8 occupational therapy, and speech therapy, may provide for the  
9 required surgical and anesthesia services through a contract with  
10 another acute care hospital. In addition, a general acute care  
11 hospital that, on July 1, 1983, provided required surgical and  
12 anesthesia services through a contract or agreement with another  
13 acute care hospital may continue to provide these surgical and  
14 anesthesia services through a contract or agreement with an acute  
15 care hospital. The general acute care hospital operated by the State  
16 Department of Developmental Services at Agnews Developmental  
17 Center may, until June 30, 2007, provide surgery and anesthesia  
18 services through a contract or agreement with another acute care  
19 hospital. Notwithstanding the requirements of this subdivision, a  
20 general acute care hospital operated by the Department of  
21 Corrections and Rehabilitation or the Department of Veterans  
22 Affairs may provide surgery and anesthesia services during normal  
23 weekday working hours, and not provide these services during  
24 other hours of the weekday or on weekends or holidays, if the  
25 general acute care hospital otherwise meets the requirements of  
26 this section.

27 A “general acute care hospital” includes a “rural general acute  
28 care hospital.” However, a “rural general acute care hospital” shall  
29 not be required by the department to provide surgery and anesthesia  
30 services. A “rural general acute care hospital” shall meet either of  
31 the following conditions:

32 (1) The hospital meets criteria for designation within peer group  
33 six or eight, as defined in the report entitled Hospital Peer Grouping  
34 for Efficiency Comparison, dated December 20, 1982.

35 (2) The hospital meets the criteria for designation within peer  
36 group five or seven, as defined in the report entitled Hospital Peer  
37 Grouping for Efficiency Comparison, dated December 20, 1982,  
38 and has no more than 76 acute care beds and is located in a census  
39 dwelling place of 15,000 or less population according to the 1980  
40 federal census.

1 (b) “Acute psychiatric hospital” means a health facility having  
2 a duly constituted governing body with overall administrative and  
3 professional responsibility and an organized medical staff that  
4 provides 24-hour inpatient care for persons with mental health  
5 disorders or other patients referred to in Division 5 (commencing  
6 with Section 5000) or Division 6 (commencing with Section 6000)  
7 of the Welfare and Institutions Code, including the following basic  
8 services: medical, nursing, rehabilitative, pharmacy, and dietary  
9 services.

10 (c) (1) “Skilled nursing facility” means a health facility that  
11 provides skilled nursing care and supportive care to patients whose  
12 primary need is for availability of skilled nursing care on an  
13 extended basis.

14 (2) “Skilled nursing facility” includes a “small house skilled  
15 nursing facility (SHSNF),” as defined in Section 1323.5.

16 (d) “Intermediate care facility” means a health facility that  
17 provides inpatient care to ambulatory or nonambulatory patients  
18 who have recurring need for skilled nursing supervision and need  
19 supportive care, but who do not require availability of continuous  
20 skilled nursing care.

21 (e) “Intermediate care facility/developmentally disabled  
22 habilitative” means a facility with a capacity of 4 to 15 beds that  
23 provides 24-hour personal care, habilitation, developmental, and  
24 supportive health services to 15 or fewer persons with  
25 developmental disabilities who have intermittent recurring needs  
26 for nursing services, but have been certified by a physician and  
27 surgeon as not requiring availability of continuous skilled nursing  
28 care.

29 (f) “Special hospital” means a health facility having a duly  
30 constituted governing body with overall administrative and  
31 professional responsibility and an organized medical or dental staff  
32 that provides inpatient or outpatient care in dentistry or maternity.

33 (g) “Intermediate care facility/developmentally disabled” means  
34 a facility that provides 24-hour personal care, habilitation,  
35 developmental, and supportive health services to persons with  
36 developmental disabilities whose primary need is for  
37 developmental services and who have a recurring but intermittent  
38 need for skilled nursing services.

39 (h) “Intermediate care facility/developmentally  
40 disabled-nursing” means a facility with a capacity of 4 to 15 beds

1 that provides 24-hour personal care, developmental services, and  
2 nursing supervision for persons with developmental disabilities  
3 who have intermittent recurring needs for skilled nursing care but  
4 have been certified by a physician and surgeon as not requiring  
5 continuous skilled nursing care. The facility shall serve medically  
6 fragile persons with developmental disabilities or who demonstrate  
7 significant developmental delay that may lead to a developmental  
8 disability if not treated.

9 (i) (1) “Congregate living health facility” means a residential  
10 home with a capacity, except as provided in paragraph (4), of no  
11 more than ~~12~~ 18 beds, that provides inpatient care, including the  
12 following basic services: medical supervision, 24-hour skilled  
13 nursing and supportive care, pharmacy, dietary, social, recreational,  
14 and at least one type of service specified in paragraph (2). The  
15 primary need of congregate living health facility residents shall  
16 be for availability of skilled nursing care on a recurring,  
17 intermittent, extended, or continuous basis. This care is generally  
18 less intense than that provided in general acute care hospitals but  
19 more intense than that provided in skilled nursing facilities.

20 (2) Congregate living health facilities shall provide one *or more*  
21 of the following services:

22 (A) Services for persons who are mentally alert, persons with  
23 physical disabilities, who may be ventilator dependent.

24 (B) Services for persons who have a diagnosis of terminal  
25 illness, a diagnosis of a life-threatening illness, or both. Terminal  
26 illness means the individual has a life expectancy of six months  
27 or less as stated in writing by his or her attending physician and  
28 surgeon. A “life-threatening illness” means the individual has an  
29 illness that can lead to a possibility of a termination of life within  
30 five years or less as stated in writing by his or her attending  
31 physician and surgeon.

32 (C) Services for persons who are catastrophically and severely  
33 disabled. A person who is catastrophically and severely disabled  
34 means a person whose origin of disability was acquired through  
35 trauma or nondegenerative neurologic illness, for whom it has  
36 been determined that active rehabilitation would be beneficial and  
37 to whom these services are being provided. Services offered by a  
38 congregate living health facility to a person who is catastrophically  
39 disabled shall include, but not be limited to, speech, physical, and  
40 occupational therapy.

1 (3) A congregate living health facility license shall specify which  
2 of the types of persons described in paragraph (2) to whom a  
3 facility is licensed to provide services.

4 (4) (A) A facility operated by a city and county for the purposes  
5 of delivering services under this section may have a capacity of  
6 59 beds.

7 (B) A congregate living health facility not operated by a city  
8 and county servicing persons who are terminally ill, persons who  
9 have been diagnosed with a life-threatening illness, or both, that  
10 is located in a county with a population of 500,000 or more persons,  
11 or located in a county of the 16th class pursuant to Section 28020  
12 of the Government Code, may have not more than 25 beds for the  
13 purpose of serving persons who are terminally ill.

14 (C) A congregate living health facility not operated by a city  
15 and county serving persons who are catastrophically and severely  
16 disabled, as defined in subparagraph (C) of paragraph (2) that is  
17 located in a county of 500,000 or more persons may have not more  
18 than ~~12~~ 18 beds for the purpose of serving persons who are  
19 catastrophically and severely disabled.

20 (5) A congregate living health facility shall have a  
21 noninstitutional, homelike environment.

22 (j) (1) "Correctional treatment center" means a health facility  
23 operated by the Department of Corrections and Rehabilitation, the  
24 Department of Corrections and Rehabilitation, Division of Juvenile  
25 Facilities, or a county, city, or city and county law enforcement  
26 agency that, as determined by the department, provides inpatient  
27 health services to that portion of the inmate population who do not  
28 require a general acute care level of basic services. This definition  
29 shall not apply to those areas of a law enforcement facility that  
30 houses inmates or wards who may be receiving outpatient services  
31 and are housed separately for reasons of improved access to health  
32 care, security, and protection. The health services provided by a  
33 correctional treatment center shall include, but are not limited to,  
34 all of the following basic services: physician and surgeon,  
35 psychiatrist, psychologist, nursing, pharmacy, and dietary. A  
36 correctional treatment center may provide the following services:  
37 laboratory, radiology, perinatal, and any other services approved  
38 by the department.

39 (2) Outpatient surgical care with anesthesia may be provided,  
40 if the correctional treatment center meets the same requirements

1 as a surgical clinic licensed pursuant to Section 1204, with the  
2 exception of the requirement that patients remain less than 24  
3 hours.

4 (3) Correctional treatment centers shall maintain written service  
5 agreements with general acute care hospitals to provide for those  
6 inmate physical health needs that cannot be met by the correctional  
7 treatment center.

8 (4) Physician and surgeon services shall be readily available in  
9 a correctional treatment center on a 24-hour basis.

10 (5) It is not the intent of the Legislature to have a correctional  
11 treatment center supplant the general acute care hospitals at the  
12 California Medical Facility, the California Men’s Colony, and the  
13 California Institution for Men. This subdivision shall not be  
14 construed to prohibit the Department of Corrections and  
15 Rehabilitation from obtaining a correctional treatment center  
16 license at these sites.

17 (k) “Nursing facility” means a health facility licensed pursuant  
18 to this chapter that is certified to participate as a provider of care  
19 either as a skilled nursing facility in the federal Medicare Program  
20 under Title XVIII of the federal Social Security Act (42 U.S.C.  
21 Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid  
22 Program under Title XIX of the federal Social Security Act (42  
23 U.S.C. Sec. 1396 et seq.), or as both.

24 (l) Regulations defining a correctional treatment center described  
25 in subdivision (j) that is operated by a county, city, or city and  
26 county, the Department of Corrections and Rehabilitation, or the  
27 Department of Corrections and Rehabilitation, Division of Juvenile  
28 Facilities, shall not become effective prior to, or if effective, shall  
29 be inoperative until January 1, 1996, and until that time these  
30 correctional facilities are exempt from any licensing requirements.

31 (m) “Intermediate care facility/developmentally  
32 disabled-continuous nursing (ICF/DD-CN)” means a homelike  
33 facility with a capacity of four to eight, inclusive, beds that  
34 provides 24-hour personal care, developmental services, and  
35 nursing supervision for persons with developmental disabilities  
36 who have continuous needs for skilled nursing care and have been  
37 certified by a physician and surgeon as warranting continuous  
38 skilled nursing care. The facility shall serve medically fragile  
39 persons who have developmental disabilities or demonstrate  
40 significant developmental delay that may lead to a developmental

1 disability if not treated. ICF/DD-CN facilities shall be subject to  
 2 licensure under this chapter upon adoption of licensing regulations  
 3 in accordance with Section 1275.3. A facility providing continuous  
 4 skilled nursing services to persons with developmental disabilities  
 5 pursuant to Section 14132.20 or 14495.10 of the Welfare and  
 6 Institutions Code shall apply for licensure under this subdivision  
 7 within 90 days after the regulations become effective, and may  
 8 continue to operate pursuant to those sections until its licensure  
 9 application is either approved or denied.

10 (n) “Hospice facility” means a health facility licensed pursuant  
 11 to this chapter with a capacity of no more than 24 beds that  
 12 provides hospice services. Hospice services include, but are not  
 13 limited to, routine care, continuous care, inpatient respite care, and  
 14 inpatient hospice care as defined in subdivision (d) of Section  
 15 1339.40, and is operated by a provider of hospice services that is  
 16 licensed pursuant to Section 1751 and certified as a hospice  
 17 pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

18 *SEC. 2. 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.*

27 ~~SECTION 1. Section 1569.156 of the Health and Safety Code~~  
 28 ~~is amended to read:~~

29 ~~1569.156. (a) A residential care facility for the elderly shall~~  
 30 ~~do all of the following:~~

31 ~~(1) Not condition the provision of care or otherwise discriminate~~  
 32 ~~based on whether or not an individual has executed an advance~~  
 33 ~~directive, consistent with applicable laws and regulations.~~

34 ~~(2) Provide education to staff on issues concerning advance~~  
 35 ~~directives.~~

36 ~~(3) Provide written information, upon admission, about the~~  
 37 ~~right to make decisions concerning medical care, including the~~  
 38 ~~right to accept or refuse medical or surgical treatment and the right,~~  
 39 ~~under state law, to formulate advance directives.~~

1 ~~(4) Provide written information about policies of the facility~~  
2 ~~regarding the implementation of the rights described in paragraph~~  
3 ~~(3):~~

4 ~~(b) For purposes of this section, “advance directive” means an~~  
5 ~~“advance health care directive,” as defined in Section 4605 of the~~  
6 ~~Probate Code, or some other form of instruction recognized under~~  
7 ~~state law specifically addressing the provision of health care,~~  
8 ~~including a request regarding resuscitative measures, as defined~~  
9 ~~in Section 4780 of the Probate Code.~~

10 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
11 ~~Section 6 of Article XIII B of the California Constitution because~~  
12 ~~the only costs that may be incurred by a local agency or school~~  
13 ~~district will be incurred because this act creates a new crime or~~  
14 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
15 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
16 ~~the Government Code, or changes the definition of a crime within~~  
17 ~~the meaning of Section 6 of Article XIII B of the California~~  
18 ~~Constitution.~~