

AMENDED IN SENATE MAY 28, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1211

Introduced by Assembly Member Maienschein

February 27, 2015

An act to amend Section 1250 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1211, as amended, Maienschein. 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 bill would make other technical, nonsubstantive changes.*

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
14 provides 24-hour inpatient care, including the following basic
15 services: medical, nursing, surgical, anesthesia, laboratory,
16 radiology, pharmacy, and dietary services. A general acute care
17 hospital may include more than one physical plant maintained and
18 operated on separate premises as provided in Section 1250.8. A
19 general acute care hospital that exclusively provides acute medical
20 rehabilitation center services, including at least physical therapy,
21 occupational therapy, and speech therapy, may provide for the
22 required surgical and anesthesia services through a contract with
23 another acute care hospital. In addition, a general acute care
24 hospital that, on July 1, 1983, provided required surgical and
25 anesthesia services through a contract or agreement with another
26 acute care hospital may continue to provide these surgical and
27 anesthesia services through a contract or agreement with an acute
28 care hospital. The general acute care hospital operated by the State
29 Department of Developmental Services at Agnews Developmental
30 Center may, until June 30, 2007, provide surgery and anesthesia
31 services through a contract or agreement with another acute care
32 hospital. Notwithstanding the requirements of this subdivision, a
33 general acute care hospital operated by the Department of

1 Corrections and Rehabilitation or the Department of Veterans
2 Affairs may provide surgery and anesthesia services during normal
3 weekday working hours, and not provide these services during
4 other hours of the weekday or on weekends or holidays, if the
5 general acute care hospital otherwise meets the requirements of
6 this section.

7 A “general acute care hospital” includes a “rural general acute
8 care hospital.” However, a “rural general acute care hospital” shall
9 not be required by the department to provide surgery and anesthesia
10 services. A “rural general acute care hospital” shall meet either of
11 the following conditions:

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

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

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

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

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

36 (d) “Intermediate care facility” means a health facility that
37 provides inpatient care to ambulatory or nonambulatory patients
38 who have recurring need for skilled nursing supervision and need
39 supportive care, but who do not require availability of continuous
40 skilled nursing care.

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

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

13 (g) “Intermediate care facility/developmentally disabled” means
14 a facility that provides 24-hour personal care, habilitation,
15 developmental, and supportive health services to persons with
16 developmental disabilities whose primary need is for
17 developmental services and who have a recurring but intermittent
18 need for skilled nursing services.

19 (h) “Intermediate care facility/developmentally
20 disabled-nursing” means a facility with a capacity of 4 to 15 beds
21 that provides 24-hour personal care, developmental services, and
22 nursing supervision for persons with developmental disabilities
23 who have intermittent recurring needs for skilled nursing care but
24 have been certified by a physician and surgeon as not requiring
25 continuous skilled nursing care. The facility shall serve medically
26 fragile persons with developmental disabilities or who demonstrate
27 significant developmental delay that may lead to a developmental
28 disability if not treated.

29 (i) (1) “Congregate living health facility” means a residential
30 home with a capacity, except as provided in paragraph (4), of no
31 more than 18 beds, that provides inpatient care, including the
32 following basic services: medical supervision, 24-hour skilled
33 nursing and supportive care, pharmacy, dietary, social, recreational,
34 and at least one type of service specified in paragraph (2). The
35 primary need of congregate living health facility residents shall
36 be for availability of skilled nursing care on a recurring,
37 intermittent, extended, or continuous basis. This care is generally
38 less intense than that provided in general acute care hospitals but
39 more intense than that provided in skilled nursing facilities.

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

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

5 (B) Services for persons who have a diagnosis of terminal
6 illness, a diagnosis of a life-threatening illness, or both. Terminal
7 illness means the individual has a life expectancy of six months
8 or less as stated in writing by his or her attending physician and
9 surgeon. A “life-threatening illness” means the individual has an
10 illness that can lead to a possibility of a termination of life within
11 five years or less as stated in writing by his or her attending
12 physician and surgeon.

13 (C) Services for persons who are catastrophically and severely
14 disabled. A person who is catastrophically and severely disabled
15 means a person whose origin of disability was acquired through
16 trauma or nondegenerative neurologic illness, for whom it has
17 been determined that active rehabilitation would be beneficial and
18 to whom these services are being provided. Services offered by a
19 congregate living health facility to a person who is catastrophically
20 disabled shall include, but not be limited to, speech, physical, and
21 occupational therapy.

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

25 (4) (A) A facility operated by a city and county for the purposes
26 of delivering services under this section may have a capacity of
27 59 beds.

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

35 ~~(C) A congregate living health facility not operated by a city
36 and county servicing persons who are catastrophically and severely
37 disabled, as defined in subparagraph (C) of paragraph (2) that is
38 located in a county of 500,000 or more persons may have not more
39 than 18 beds for the purpose of serving persons who are
40 catastrophically and severely disabled.~~

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

3 (j) (1) “Correctional treatment center” means a health facility
4 operated by the Department of Corrections and Rehabilitation, the
5 Department of Corrections and Rehabilitation, Division of Juvenile
6 Facilities, or a county, city, or city and county law enforcement
7 agency that, as determined by the department, provides inpatient
8 health services to that portion of the inmate population who do not
9 require a general acute care level of basic services. This definition
10 shall not apply to those areas of a law enforcement facility that
11 houses inmates or wards who may be receiving outpatient services
12 and are housed separately for reasons of improved access to health
13 care, security, and protection. The health services provided by a
14 correctional treatment center shall include, but are not limited to,
15 all of the following basic services: physician and surgeon,
16 psychiatrist, psychologist, nursing, pharmacy, and dietary. A
17 correctional treatment center may provide the following services:
18 laboratory, radiology, perinatal, and any other services approved
19 by the department.

20 (2) Outpatient surgical care with anesthesia may be provided,
21 if the correctional treatment center meets the same requirements
22 as a surgical clinic licensed pursuant to Section 1204, with the
23 exception of the requirement that patients remain less than 24
24 hours.

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

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

31 (5) It is not the intent of the Legislature to have a correctional
32 treatment center supplant the general acute care hospitals at the
33 California Medical Facility, the California Men’s Colony, and the
34 California Institution for Men. This subdivision shall not be
35 construed to prohibit the Department of Corrections and
36 Rehabilitation from obtaining a correctional treatment center
37 license at these sites.

38 (k) “Nursing facility” means a health facility licensed pursuant
39 to this chapter that is certified to participate as a provider of care
40 either as a skilled nursing facility in the federal Medicare Program

1 under Title XVIII of the federal Social Security Act (42 U.S.C.
2 Sec. 1395 et seq.) or as a nursing facility in the federal Medicaid
3 Program under Title XIX of the federal Social Security Act (42
4 U.S.C. Sec. 1396 et seq.), or as both.

5 (l) Regulations defining a correctional treatment center described
6 in subdivision (j) that is operated by a county, city, or city and
7 county, the Department of Corrections and Rehabilitation, or the
8 Department of Corrections and Rehabilitation, Division of Juvenile
9 Facilities, shall not become effective prior to, ~~or~~ or, if effective,
10 shall be inoperative until January 1, 1996, and until that time these
11 correctional facilities are exempt from any licensing requirements.

12 (m) “Intermediate care facility/developmentally
13 disabled-continuous nursing (ICF/DD-CN)” means a homelike
14 facility with a capacity of four to eight, inclusive, beds that
15 provides 24-hour personal care, developmental services, and
16 nursing supervision for persons with developmental disabilities
17 who have continuous needs for skilled nursing care and have been
18 certified by a physician and surgeon as warranting continuous
19 skilled nursing care. The facility shall serve medically fragile
20 persons who have developmental disabilities or demonstrate
21 significant developmental delay that may lead to a developmental
22 disability if not treated. ICF/DD-CN facilities shall be subject to
23 licensure under this chapter upon adoption of licensing regulations
24 in accordance with Section 1275.3. A facility providing continuous
25 skilled nursing services to persons with developmental disabilities
26 pursuant to Section 14132.20 or 14495.10 of the Welfare and
27 Institutions Code shall apply for licensure under this subdivision
28 within 90 days after the regulations become effective, and may
29 continue to operate pursuant to those sections until its licensure
30 application is either approved or denied.

31 (n) “Hospice facility” means a health facility licensed pursuant
32 to this chapter with a capacity of no more than 24 beds that
33 provides hospice services. Hospice services include, but are not
34 limited to, routine care, continuous care, inpatient respite care, and
35 inpatient hospice care as defined in subdivision (d) of Section
36 1339.40, and is operated by a provider of hospice services that is
37 licensed pursuant to Section 1751 and certified as a hospice
38 pursuant to Part 418 of Title 42 of the Code of Federal Regulations.

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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