

AMENDED IN SENATE APRIL 26, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1532

Introduced by Assembly Members Florez and Briggs

February 26, 1999

An act to ~~amend Section 1157 of the Evidence Code, and to~~ amend Section 1250.8 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1532, as amended, Florez. Health facilities: single medical staff.

Existing law provides for the licensure and regulation of health care facilities, including general acute care hospitals, by the State Department of Health Services. Existing law authorizes the department to issue a single consolidated license to a general acute care hospital that includes more than one physical plant on separate premises in certain circumstances.

This bill would specifically provide that ~~two or more~~ *the 3* general acute care hospitals that are operated under common ownership or management, ~~that meet certain requirements relating to the issuance of a consolidated license,~~ *by Community Health System in Fresno,* may have a single governing body, a single administration, and a single medical staff, and may maintain separate hospital licenses.

~~Existing law provides that the proceedings and records of organized committees of medical staffs and certain professional peer review bodies are not subject to discovery, and that persons in attendance at meetings of those bodies may not be required to testify as to what transpired at the meeting.~~

~~This bill would specifically provide that this prohibition applies to the proceedings and records of a single medical staff that serves as the organized medical staff for more than one licensed general acute care hospital which maintains separate licensure as described.~~

~~This bill would provide that it is declaratory of existing law.~~

~~The California Constitution provides that a local or special statute is invalid in any case if a general statute can be made applicable.~~

~~This bill would declare that, due to the unique circumstances applicable only to health care delivery in the Fresno region, a statute of general applicability within the meaning of those provisions cannot be enacted, and that a special statute is necessary.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

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

1 ~~SECTION 1. Section 1157 of the Evidence Code is~~
2 ~~amended to read:~~
3 ~~1157. (a) Neither the proceedings nor the records of~~
4 ~~organized committees of medical, medical-dental,~~
5 ~~podiatric, registered dietitian, psychological, or~~
6 ~~veterinary staffs in hospitals, or of a peer review body, as~~
7 ~~defined in Section 805 of the Business and Professions~~
8 ~~Code, having the responsibility of evaluation and~~
9 ~~improvement of the quality of care rendered in the~~
10 ~~hospital, or for that peer review body, or medical or~~
11 ~~dental review or dental hygienist review or chiropractic~~
12 ~~review or podiatric review or registered dietitian review~~
13 ~~or veterinary review or acupuncturist review committees~~



1 of local medical, dental, dental hygienist, podiatric,
2 dietetic, veterinary, acupuncture, or chiropractic
3 societies, or psychological review committees of state or
4 local psychological associations or societies having the
5 responsibility of evaluation and improvement of the
6 quality of care, shall be subject to discovery.

7 (b) Except as hereinafter provided, no person in
8 attendance at a meeting of any of those committees shall
9 be required to testify as to what transpired at that
10 meeting.

11 (c) The prohibition relating to discovery or testimony
12 does not apply to the statements made by any person in
13 attendance at a meeting of any of those committees who
14 is a party to an action or proceeding the subject matter of
15 which was reviewed at that meeting, or to any person
16 requesting hospital staff privileges, or in any action
17 against an insurance carrier alleging bad faith by the
18 carrier in refusing to accept a settlement offer within the
19 policy limits.

20 (d) The prohibitions in this section do not apply to
21 medical, dental, dental hygienist, podiatric, dietetic,
22 psychological, veterinary, acupuncture, or chiropractic
23 society committees that exceed 10 percent of the
24 membership of the society, nor to any of those
25 committees if any person serves upon the committee
26 when his or her own conduct or practice is being
27 reviewed.

28 (e) The amendments made to this section by Chapter
29 1081 of the Statutes of 1983, or at the 1985 portion of the
30 1985-86 Regular Session of the Legislature, or at the 1990
31 portion of the 1989-90 Regular Session of the Legislature,
32 do not exclude the discovery or use of relevant evidence
33 in a criminal action.

34 (f) The prohibition relating to discovery or testimony
35 described in this section shall apply to the proceedings
36 and records described in subdivision (a) of a single
37 medical staff that serves as the organized medical staff for
38 more than one licensed general acute care hospital as
39 described in subdivision (m) of Section 1250.8 of the



1 ~~Health and Safety Code. This subdivision is declaratory of~~
2 ~~existing law.~~

3 ~~SEC. 2.—~~

4 *SECTION 1.* Section 1250.8 of the Health and Safety
5 Code is amended to read:

6 1250.8. (a) Notwithstanding subdivision (a) of
7 Section 437.10, the state department, upon application of
8 a general acute care hospital which meets all the criteria
9 of subdivision (b), and other applicable requirements of
10 licensure, shall issue a single consolidated license to a
11 general acute care hospital which includes more than one
12 physical plant maintained and operated on separate
13 premises or which has multiple licenses for a single health
14 facility on the same premises. A single consolidated
15 license shall not be issued where the separate
16 freestanding physical plant is a skilled nursing facility or
17 an intermediate care facility, whether or not the location
18 of the skilled nursing facility or intermediate care facility
19 is contiguous to the general acute care hospital unless the
20 hospital is exempt from the requirements of subdivision
21 (b) of Section 1254, or the facility is part of the physical
22 structure licensed to provide acute care.

23 (b) The issuance of a single consolidated license shall
24 be based on the following criteria:

25 (1) There is a single governing body for all of the
26 facilities maintained and operated by the licensee.

27 (2) There is a single administration for all of the
28 facilities maintained and operated by the licensee.

29 (3) There is a single medical staff for all of the facilities
30 maintained and operated by the licensee, with a single set
31 of bylaws, rules, and regulations, which prescribe a single
32 committee structure.

33 (4) Except as provided otherwise in this paragraph,
34 the physical plants maintained and operated by the
35 licensee which are to be covered by the single
36 consolidated license are located not more than 15 miles
37 apart. If an applicant provides evidence satisfactory to the
38 department that it can comply with all requirements of
39 licensure and provide quality care and adequate
40 administrative and professional supervision, the director



1 may issue a single consolidated license to a general acute
2 care hospital that operates two or more physical plants
3 located more than 15 miles apart under any of the
4 following circumstances:

5 (A) One or more of the physical plants is located in a
6 rural area, as defined by regulations of the director.

7 (B) One or more of the physical plants provides only
8 outpatient services, as defined by the department.

9 (C) If Section 14105.986 of the Welfare and Institutions
10 Code is implemented and the applicant meets all of the
11 following criteria:

12 (i) The applicant is a nonprofit corporation.

13 (ii) The applicant is a children's hospital listed in
14 Section 10727 of the Welfare and Institutions Code.

15 (iii) The applicant is affiliated with a major university
16 medical school, and located adjacent thereto.

17 (iv) The applicant operates a regional tertiary care
18 facility.

19 (v) One of the physical plants is located in a county
20 that has a consolidated and county government structure.

21 (vi) One of the physical plants is located in a county
22 having a population between 1 million and 2 million.

23 (vii) The applicant is located in a city with a
24 population between 50,000 and 100,000.

25 (c) In issuing the single consolidated license, the state
26 department shall specify the location of each
27 supplemental service and the location of the number and
28 category of beds provided by the licensee. The single
29 consolidated license shall be renewed annually.

30 (d) To the extent required by Part 1.5 (commencing
31 with Section 437) of Division 1, a general acute care
32 hospital which has been issued a single consolidated
33 license:

34 (1) Shall not transfer from one facility to another a
35 special service described in Section 1255 without first
36 obtaining a certificate of need.

37 (2) Shall not transfer, in whole or in part, from one
38 facility to another, a supplemental service, as defined in
39 regulations of the director pursuant to this chapter,
40 without first obtaining a certificate of need, unless the



1 licensee, 30 days prior to the relocation, notifies the Office
2 of Statewide Health Planning and Development, the
3 applicable health systems agency, and the state
4 department of the licensee's intent to relocate the
5 supplemental service, and includes with this notice a cost
6 estimate, certified by a person qualified by experience or
7 training to render the estimates, which estimates that the
8 cost of the transfer will not exceed the capital
9 expenditure threshold established by the Office of
10 Statewide Health Planning and Development pursuant
11 to Section 437.10.

12 (3) Shall not transfer beds from one facility to another
13 facility, without first obtaining a certificate of need unless,
14 30 days prior to the relocation, the licensee notifies the
15 Office of Statewide Health Planning and Development,
16 the applicable health systems agency, and the state
17 department of the licensee's intent to relocate health
18 facility beds, and includes with this notice both of the
19 following:

20 (A) A cost estimate, certified by a person qualified by
21 experience or training to render the estimates, which
22 estimates that the cost of the relocation will not exceed
23 the capital expenditure threshold established by the
24 Office of Statewide Health Planning and Development
25 pursuant to Section 437.10.

26 (B) The identification of the number, classification,
27 and location of the health facility beds in the transferor
28 facility and the proposed number, classification, and
29 location of the health facility beds in the transferee
30 facility.

31 Except as otherwise permitted in Part 1.5
32 (commencing with Section 437) of Division 1, or as
33 authorized in an approved certificate of need pursuant to
34 that part, health facility beds transferred pursuant to this
35 section shall be used in the transferee facility in the same
36 bed classification as defined in Section 1250.1, as the beds
37 were classified in the transferor facility.

38 Health facility beds transferred pursuant to this section
39 shall not be transferred back to the transferor facility for
40 two years from the date of the transfer, regardless of cost,



1 without first obtaining a certificate of need pursuant to
2 Part 1.5 (commencing with Section 437) of Division 1.

3 (e) All transfers pursuant to subdivision (d) shall
4 satisfy all applicable requirements of licensure and shall
5 be subject to the written approval, if required, of the state
6 department. The state department may adopt
7 regulations which are necessary to implement the
8 provisions of this section. These regulations may include
9 a requirement that each facility of a health facility subject
10 to a single consolidated license have an onsite full-time or
11 part-time administrator.

12 (f) As used in this section, “facility” means any
13 physical plant operated or maintained by a health facility
14 subject to a single, consolidated license issued pursuant to
15 this section.

16 (g) For purposes of selective provider contracts
17 negotiated under the Medi-Cal program, the treatment
18 of a health facility with a single consolidated license issued
19 pursuant to this section shall be subject to negotiation
20 between the health facility and the California Medical
21 Assistance Commission. A general acute care hospital
22 which is issued a single consolidated license pursuant to
23 this section may, at its option, receive from the state
24 department a single Medi-Cal program provider number
25 or separate Medi-Cal program provider numbers for one
26 or more of the facilities subject to the single consolidated
27 license. Irrespective of whether the general acute care
28 hospital is issued one or more Medi-Cal provider
29 numbers, the state department may require the hospital
30 to file separate cost reports for each facility pursuant to
31 Section 14170 of the Welfare and Institutions Code.

32 (h) For purposes of the Annual Report of Hospitals
33 required by regulations adopted by the state department
34 pursuant to this part, the state department and the Office
35 of Statewide Health Planning and Development may
36 require reporting of bed and service utilization data
37 separately by each facility of a general acute care hospital
38 issued a single consolidated license pursuant to this
39 section.



1 (i) The amendments made to this section during the
2 1985–86 Regular Session of the California Legislature
3 pertaining to the issuance of a single consolidated license
4 to a general acute care hospital in the case where the
5 separate physical plant is a skilled nursing facility or
6 intermediate care facility shall not apply to the following
7 facilities:

8 (1) Any facility which obtained a certificate of need
9 after August 1, 1984, and prior to February 14, 1985, as
10 described in this subdivision. The certificate of need shall
11 be for the construction of a skilled nursing facility or
12 intermediate care facility which is the same facility for
13 which the hospital applies for a single consolidated
14 license, pursuant to subdivision (a).

15 (2) Any facility for which a single consolidated license
16 has been issued pursuant to subdivision (a), as described
17 in this subdivision, prior to the effective date of the
18 amendments made to this section during the 1985–86
19 Regular Session of the California Legislature.

20 Any facility which has been issued a single consolidated
21 license pursuant to subdivision (a), as described in this
22 subdivision, shall be granted renewal licenses based upon
23 the same criteria used for the initial consolidated license.

24 (j) If the state department issues a single consolidated
25 license pursuant to this section, the state department may
26 take any action authorized by this chapter, including, but
27 not limited to, any action specified in Article 5
28 (commencing with Section 1294), with respect to any
29 facility, or any service provided in any facility, which is
30 included in the consolidated license.

31 (k) The eligibility for participation in the Medi-Cal
32 program (Chapter 7 (commencing with Section 14000),
33 Part 3, Division 9, Welfare and Institutions Code) of any
34 facility that is included in a consolidated license issued
35 pursuant to this section, provides outpatient services, and
36 is located more than 15 miles from the health facility
37 issued the consolidated license shall be subject to a
38 determination of eligibility by the state department. This
39 subdivision shall not apply to any facility that is located in
40 a rural area and is included in a consolidated license



1 issued pursuant to subparagraphs (A), (B), and (C) of
 2 paragraph (4) of subdivision (b). Regardless of whether
 3 a facility has received or not received a determination of
 4 eligibility pursuant to this subdivision, this subdivision
 5 shall not affect the ability of a licensed professional,
 6 providing services covered by the Medi-Cal program to
 7 a person eligible for Medi-Cal in a facility subject to a
 8 determination of eligibility pursuant to this subdivision,
 9 to bill the Medi-Cal program for those services provided
 10 in accordance with applicable regulations.

11 (l) Notwithstanding any other provision of law, the
 12 director may issue a single consolidated license for a
 13 general acute care hospital to Children’s Hospital
 14 Oakland and San Ramon Regional Medical Center.

15 (m) Notwithstanding any other provision of law, ~~two~~
 16 ~~or more~~ *the three* general acute care hospitals that are
 17 operated under common ownership or management, ~~and~~
 18 ~~that meet the requirements of paragraph (4) of~~
 19 ~~subdivision (b), may~~ *by Community Health System in*
 20 *Fresno, may* have a single governing body, a single
 21 administration, and a single medical staff, and may
 22 maintain separate hospital licenses. ~~This subdivision is~~
 23 ~~declaratory of existing law: licenses.~~

24 *SEC. 2. The Legislature finds and declares that,*
 25 *because of the unique circumstances applicable only to*
 26 *health care delivery in the Fresno region, a statute of*
 27 *general applicability within the meaning of subdivision*
 28 *(b) of Section 16 of Article IV of the California*
 29 *Constitution cannot be enacted, and therefore, this*
 30 *special statute is necessary.*

31 *SEC. 3. This act is an urgency statute necessary for the*
 32 *immediate preservation of the public peace, health, or*
 33 *safety within the meaning of Article IV of the*
 34 *Constitution and shall go into immediate effect. The facts*
 35 *constituting the necessity are:*

36 ~~In order to clarify existing law with regard to health~~
 37 ~~facility medical staff and their records and proceedings at~~
 38 ~~the earliest possible time, it is necessary that this act take~~

39 *In order to ensure uninterrupted delivery of health*
 40 *care services in the region served by the three hospitals*



1 *operated by Community Health System in Fresno during*
2 *the current year, it is necessary that this act take effect*
3 *immediately.*

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