AMENDED IN SENATE MARCH 4, 2009

SENATE BILL No. 112

Introduced by Senator Oropeza

January 29, 2009

An act to amend Sections 1247.2, 1247.4, 1247.6, 1247.63, 1247.64, *and* 1247.8 of, to add Section 1247.61 to, and to add and repeal Section 1247.62 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 112, as amended, Oropeza. Hemodialysis technicians.

Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified.

This bill would revise those requirements and prohibit a person from providing services as a hemodialysis technician without ~~(1) being certified by a specified national certification program or (2)~~ having a high school diploma or equivalency or 4 years of specified work experience, successfully completing a training program meeting

specified requirements, and passing a *board-approved* standardized test *or passing an examination offered by a certification program approved by the Centers for Medicare and Medicaid Services*, as specified. The bill would require technicians certified by the department as of the bill's operative date to meet those requirements by April 15, 2010, as specified. The bill would make other conforming and technical, nonsubstantive changes.

By changing 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.

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

Vote: $^2/_3$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In April 2008, the Centers for Medicare and Medicaid Services (CMS) issued final regulations, the Conditions for Coverage of End-Stage Renal Disease Facilities (Conditions for Coverage), at Part 494 of Title 42 of the Code of Federal Regulations, establishing conditions that dialysis facilities must meet to be certified under the Medicare Program.

(b) The Conditions for Coverage require hemodialysis technicians providing services at dialysis facilities to be certified under a state certification program or a national commercially available certification program by a specified date.

(c) The Conditions for Coverage further require hemodialysis technicians providing services at dialysis facilities to, among other things, have a high school diploma or equivalency and have completed a specified training program.

(d) More than ~~6,000~~ *5,000* persons provide services as *state-certified* hemodialysis technicians in California.

(e) Only three national commercially available certification programs have been approved by CMS.

(f) Therefore, it is the intent of the Legislature to revise the Hemodialysis Technician Training Act to ensure that hemodialysis technicians meet the requirements of the Conditions for Coverage so that dialysis facilities in this state may continue to employ those technicians.

SEC. 2. Section 1247.2 of the Business and Professions Code is amended to read:

1247.2. For the purpose of this article, the following terms have the following meaning:

(a) "Immediate supervision" means supervision of dialysis treatment in the same room in which the dialysis treatment is being performed.

(b) "Department" means the State Department of Public Health.

(c) "Hemodialysis technician" means an unlicensed health care provider who is employed by a hemodialysis clinic or unit for the purpose of participating in the direct treatment of patients undergoing hemodialysis.

SEC. 3. Section 1247.4 of the Business and Professions Code is amended to read:

1247.4. The department shall adopt regulations it deems necessary to implement this article.

SEC. 4. Section 1247.6 of the Business and Professions Code is amended to read:

1247.6. (a) Except during training under immediate supervision, and except as provided in Section 1247.62, no person shall provide services as a hemodialysis technician without being certified by the department as a Certified ~~Hemodialysis Technician (CHT). To be certified by the state as a CHT, a person must meet one of the following two requirements:~~

~~(1) Certification by the department as having been certified by one of the following:~~

~~(A) The Board of Nephrology Examiners for Nursing and Technology (BONENT).~~

~~(B) The Nephrology Nursing Certification Commission.~~

~~(C) The National Nephrology Certification Organization.~~

~~(D) Another national commercially available certification program approved by the Centers for Medicare and Medicaid Services.~~

~~(2) Certification by the department as having met the requirements of the state certification program, as set forth in Section 1247.61.~~ *Hemodialysis Technician.*

(b) This article does not apply to home dialysis patients, or patient helpers not employed by the licensed facility, who have undergone a home dialysis training program operated by a licensed clinic or hospital as defined in Sections 1204 and 1250 of the Health and Safety Code and have been certified by the medical director of the facility as being competent to perform home dialysis treatment.

SEC. 5. Section 1247.61 is added to the Business and Professions Code, to read:

1247.61. To be certified by the department as a Certified Hemodialysis Technician (CHT), a person shall meet all ~~three~~ of the following requirements:

(a) Have a high school diploma or equivalency, or have greater than four years of work experience in dialysis as of October 14, 2008.

(b) Have successfully completed a training program that is approved by the medical director and governing body of a hemodialysis clinic or unit, under the direction of a registered nurse, focused on the operation of kidney dialysis equipment and machines, providing direct patient care, and communication and interpersonal skills, including patient sensitivity training and care of difficult patients. For purposes of this subdivision, a person "successfully completes a training program" if he or she completes all didactic portions of the program and demonstrates competency in the knowledge and skills provided by the program.

(1) The training program shall include all of the following subjects:

(A) Principles of dialysis.

(B) Care of patients with kidney failure, including interpersonal skills.

(C) Dialysis procedures and documentation, including initiation, proper cannulation techniques, monitoring, and termination of dialysis.

(D) Possible complications of dialysis.

(E) Water treatment and dialysate preparation.

(F) Infection control.

(G) Safety.

(H) Dialyzer reprocessing, if applicable.

(2) A community or corporate-based training program, or a training program offered by an educational institution, is acceptable if the program meets the requirements of this subdivision.

(3) A person employed as a hemodialysis technician by a hemodialysis clinic or unit for more than two years as of October 14, 2008, who does not have documentation of having successfully completed a training program meeting the requirements of this subdivision, shall be deemed to be in compliance with this subdivision by doing both of the following:

(A) Passing a written exam, offered by a hemodialysis clinic or unit, covering the subjects listed in paragraph (1).

(B) Passing a skills checklist through observation by a registered nurse of the technician's skills.

(c) Successfully accomplish either one of the following:

~~(c)~~

(1) Pass a standardized test that is approved by the department and that covers, at a minimum, the subjects listed in paragraph (1) of subdivision (b). This test shall be administered in a proctored environment by an independent examiner. For purposes of this subdivision, independent examiners may include representatives appointed by End-Stage Renal Disease Network 17, End-Stage Renal Disease Network 18, the California Dialysis Council, or any private testing organization approved by the department for that purpose.

(2) Successfully pass an examination offered by a national, commercially available certification program for hemodialysis technicians which is approved for this purpose by the Centers for Medicare and Medicaid Services.

SEC. 6. Section 1247.62 is added to the Business and Professions Code, to read:

1247.62. (a) Except as provided in subdivision (b), Section 1247.6 shall not apply to a person certified by the department as a hemodialysis technician as of the operative date of this section.

(b) Notwithstanding Section 1247.63, the certification of a person described in subdivision (a) shall be valid until April 15, 2010. That person shall, on or before that date, obtain a new certification under Section 1247.6 in a manner prescribed by the department.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 1247.63 of the Business and Professions Code is amended to read:

1247.63. (a) Certification of a hemodialysis technician issued by the department pursuant to subdivision (a) of Section 1247.6 shall be valid for four years.

(b) A certified hemodialysis technician applying for renewal of his or her certification shall submit proof that he or she has obtained 30 hours of in-service training or continuing education in dialysis care or general health care as a requirement for the renewal of his or her certification.

(c) An expired certification may be renewed at any time within two years after its expiration on the filing of an application for renewal and documentation of the required in-service education.

SEC. 8. Section 1247.64 of the Business and Professions Code is amended to read:

1247.64. A hemodialysis technician may obtain the in-service training or continuing education required by subdivision (b) of Section 1247.63 from one or more of the following sources:

(a) Health-related courses offered by accredited postsecondary institutions.

(b) Health-related courses offered by continuing education providers approved by the California Board of Registered Nursing.

(c) Health-related courses offered by recognized health associations if the department determines the courses to be acceptable.

(d) Health-related, employer-sponsored in-service training or continuing education programs.

SEC. 9. Section 1247.8 of the Business and Professions Code is amended to read:

1247.8. Each hemodialysis unit or clinic shall have information available for inspection by the department survey teams which verifies that the hemodialysis technicians employed at the unit or clinic meet the requirements of subdivision ~~(a) of Section 1247.6~~ *Section 1247.61*.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

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

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To avoid a critical shortage of hemodialysis technicians meeting the requirements of the Medicare Program Conditions for Coverage of End-Stage Renal Disease Facilities, it is necessary that this act take effect immediately.

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