

AMENDED IN ASSEMBLY APRIL 22, 2008

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2565**

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**Introduced by Assembly Member Eng**

February 22, 2008

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An act to add Section 1254.4 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2565, as amended, Eng. Hospitals: brain death.

Existing law, the Uniform Determination of Death Act, defines a person as being "dead" to include when an individual has sustained irreversible cessation of all functions of the entire brain, including the brain stem. Existing law requires a determination of death to be made in accordance with accepted medical standards.

Existing law, administered by the State Department of Public Health, provides for the licensure and regulation of health facilities, including general acute care hospitals. A violation of the provisions regulating health facilities is a crime.

This bill would require a general acute care, acute psychiatric, or special hospital to adopt a plan or procedure for providing a family or next of kin with a reasonable period of accommodation, as defined, ~~in the event~~ *from the time* that a patient is declared dead by reason of irreversible cessation of all functions of the entire brain, including the brain stem, in accordance with a ~~separate~~ provision of existing law, *through discontinuation of life support for the patient*. The bill would also require the hospital to provide a ~~patient, upon admission, with a~~

~~written statement of the policy developed pursuant to these provisions~~  
*the patient’s family or the next of kin with a written statement of the*  
*policy developed pursuant to these provisions, as soon as possible when*  
*the potential for brain death is imminent, as determined by the treating*  
*physician, but no later than the time when a patient is declared dead*  
*by reason of irreversible cessation of all functions of the entire brain.*  
 By creating a new crime, the 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 1254.4 is added to the Health and Safety  
 2 Code, to read:

3 1254.4. (a) A hospital licensed pursuant to subdivision (a),  
 4 (b), or (f) of Section 1250, shall adopt a plan or procedure for  
 5 providing family or next of kin with a reasonable period of  
 6 accommodation, as described in subdivision (b), ~~in the event from~~  
 7 *the time* that a patient is declared dead by reason of irreversible  
 8 cessation of all functions of the entire brain, including the brain  
 9 stem, in accordance with Section 7180, *through discontinuation*  
 10 *of life support for the patient.*

11 (b) For purposes of this section, a “reasonable period” means  
 12 an amount of time afforded to gather family or next of kin and  
 13 make arrangements for special religious or cultural ceremonies.

14 (c) A hospital subject to this section shall provide ~~a patient,~~  
 15 ~~upon admission, with a written statement of the policy described~~  
 16 ~~in subdivision (a):~~ *the patient’s family or next of kin with a written*  
 17 *statement of the policy described in subdivision (a), as soon as*  
 18 *possible when the potential for brain death is imminent, as*  
 19 *determined by the treating physician, but not later than the time*  
 20 *when a patient is declared dead by reason of irreversible cessation*  
 21 *of all functions of the entire brain, including brain stem, in*  
 22 *accordance with Section 7180.*

1     SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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