

ASSEMBLY BILL

No. 1038

Introduced by Assembly Member Furutani

February 27, 2009

An act to amend Section 1276.5 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1038, as introduced, Furutani. Health facilities: nursing hours.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. A violation of these provisions is a crime.

Existing law requires that the minimum number of actual nursing hours per patient required in a skilled nursing facility shall be 3.2 hours, with specified exceptions.

This bill would increase this requirement to 3.5 nursing hours per patient. By expanding the scope 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 1276.5 of the Health and Safety Code is
2 amended to read:

3 1276.5. (a) The department shall adopt regulations setting
4 forth the minimum number of equivalent nursing hours per patient
5 required in skilled nursing and intermediate care facilities, subject
6 to the specific requirements of Section 14110.7 of the Welfare and
7 Institutions Code. However, notwithstanding Section 14110.7 *of*
8 *the Welfare and Institutions Code* or any other provision of ~~law,~~
9 ~~commencing law:~~

10 (1) *Commencing* January 1, 2000, the minimum number of
11 actual nursing hours per patient required in a skilled nursing facility
12 shall be 3.2 hours, except as provided in Section 1276.9.

13 (2) *Commencing January 1, 2010, the minimum number of*
14 *actual nursing hours per patient required in a skilled nursing*
15 *facility shall be 3.5 hours, except as provided in Section 1276.9.*

16 (b) (1) For the purposes of this section, “nursing hours” means
17 the number of hours of work performed per patient day by aides,
18 nursing assistants, or orderlies plus two times the number of hours
19 worked per patient day by registered nurses and licensed vocational
20 nurses (except directors of nursing in facilities of 60 or larger
21 capacity) and, in the distinct part of facilities and freestanding
22 facilities providing care for the developmentally disabled or
23 mentally disordered, by licensed psychiatric technicians who
24 perform direct nursing services for patients in skilled nursing and
25 intermediate care facilities, except when the skilled nursing and
26 intermediate care facility is licensed as a part of a state hospital,
27 and except that nursing hours for skilled nursing facilities means
28 the actual hours of work, without doubling the hours performed
29 per patient day by registered nurses and licensed vocational nurses.

30 (2) Concurrent with implementation of the first year of rates
31 established under the Medi-Cal Long Term Care Reimbursement
32 Act of 1990 (Article 3.8 (commencing with Section 14126) of
33 Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
34 Code), for the purposes of this section, “nursing hours” means the
35 number of hours of work performed per patient day by aides,
36 nursing assistants, registered nurses, and licensed vocational nurses
37 (except directors of nursing in facilities of 60 or larger capacity)
38 and, in the distinct part of facilities and freestanding facilities

1 providing care for the developmentally disabled or mentally
2 disordered, by licensed psychiatric technicians who performed
3 direct nursing services for patients in skilled nursing and
4 intermediate care facilities, except when the skilled nursing and
5 intermediate care facility is licensed as a part of a state hospital.

6 (c) Notwithstanding Section 1276, the department shall require
7 the utilization of a registered nurse at all times if the department
8 determines that the services of a skilled nursing and intermediate
9 care facility require the utilization of a registered nurse.

10 (d) (1) Except as otherwise provided by law, the administrator
11 of an intermediate care facility/developmentally disabled,
12 intermediate care facility/developmentally disabled habilitative,
13 or an intermediate care facility/developmentally disabled—nursing
14 shall be either a licensed nursing home administrator or a qualified
15 mental retardation professional as defined in Section 483.430 of
16 Title 42 of the Code of Federal Regulations.

17 (2) To qualify as an administrator for an intermediate care
18 facility for the developmentally disabled, a qualified mental
19 retardation professional shall complete at least six months of
20 administrative training or demonstrate six months of experience
21 in an administrative capacity in a licensed health facility, as defined
22 in Section 1250, excluding those facilities specified in subdivisions
23 (e), (h), and (i).

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

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