

Introduced by Senator Yee

February 17, 2011

An act to ~~amend Section 1279 of, and to add Section 1280.7 to, 1276.45 to~~ the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as amended, Yee. Health facilities: ~~nurse-to-patient ratios: direct care nurses.~~

Under existing law, the Board of Registered Nursing in the Department of Consumer Affairs regulates the licensing of registered nurses. Existing law requires the State Department of Public Health to license and regulate health facilities, including hospitals, and establish minimum hospital nurse-to-patient ratios by licensed nurse classification and by hospital unit. Under existing law, specified hospitals are required to adopt written policies and procedures for training and orientation of nursing staff. These provisions prohibit a registered nurse from being assigned to a nursing unit or clinical area until that nurse has received the specified orientation and demonstrated sufficient competency. A violation of these health facility provisions is a crime.

This bill would require each direct care registered nurse to receive and complete an orientation to the hospital and patient care unit in which he or she will be working and to have demonstrated competency, as specified. It would preclude a nurse who has not completed this orientation and had validation of competency from being assigned direct patient care. This bill would specify that, until the nurse completes orientation and has validation of competency, he or she would not be counted as staff in computing the nurse-to-patient ratio. This bill would

exempt a state inpatient mental health hospital, a state developmental center, a state veterans' home, or a state correctional institution from those provisions of the bill requiring specified observation of the nurse.

By creating a new 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.

~~Existing law provides for the regulation and inspection of health facilities by the State Department of Public Health. Existing law requires the department, with regard to general acute care hospitals, acute psychiatric hospitals, and special hospitals, to adopt regulations that establish certain minimum nurse-to-patient ratios, and requires these health facilities to adopt written policies and procedures for training and orientation of nursing staff. Violation of these provisions is a misdemeanor.~~

~~This bill would specifically include an inspection for compliance with the nurse-to-patient ratio requirements within an inspection for compliance with existing regulations. The bill would require an inspection for compliance with a filed plan of correction for a hospital notified of a deficiency in compliance with the nurse-to-patient ratio requirements and would require the imposition of administrative penalties, as specified. It would require the notice of deficiency regarding the nurse-to-patient ratio requirements, as well as an approved plan of correction, to be posted in the nurses' station or designated nurses' area of the unit of the health facility where the deficiency occurred.~~

~~By creating new crimes, 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 1276.45 is added to the Health and Safety*
2 *Code, to read:*

3 1276.45. (a) *Each general acute care hospital, acute*
4 *psychiatric hospital, and special hospital, as defined in subdivisions*
5 *(a), (b), and (f) of Section 1250, shall ensure that all direct care*
6 *registered nurses, including new hires, casual, per diem, temporary*
7 *agency, registry, and traveler staff, shall receive and complete*
8 *orientation to the hospital and patient care unit or clinical care*
9 *area in which they will be working. All health facilities subject to*
10 *this section shall adopt written policies and procedures for the*
11 *training and orientation of nursing staff.*

12 (b) (1) *Every direct care registered nurse shall have current*
13 *demonstrated and validated competency required for the specific*
14 *individual needs of the patient population admitted to the unit or*
15 *clinical area before being assigned to patient care for that unit or*
16 *clinical area. In accordance with paragraph (2), current*
17 *competency may only be demonstrated and validated by the direct*
18 *observation of the orientee by another direct care registered nurse*
19 *who has previously demonstrated current competency in the*
20 *relevant patient population. Self-assessments are prohibited.*

21 (2) *This paragraph applies to only temporary agency, registry,*
22 *and traveler staff registered nurses. The observing direct care*
23 *registered nurse shall be required to directly observe and assess*
24 *the orientee within the relevant clinical area and with the relevant*
25 *patient population for a minimum of five standard nursing shifts*
26 *in order to determine if the orientee displays the required*
27 *knowledge, performance, and skills of patient assessment, patient*
28 *care planning, education, intervention, patient evaluation, and*
29 *patient advocacy to satisfactorily fulfill the duties required by the*
30 *Nursing Practice Act (Chapter 6 (commencing with Section 2700)*
31 *of Division 2 of the Business and Professions Code) and the*
32 *Standards of Competent Performance.*

33 (c) *The written policies and procedures for the orientation of*
34 *nursing staff shall require that all temporary personnel shall*
35 *receive orientation and be subject to validation of demonstrated*
36 *competency consistent with the requirements of this section and*
37 *with Sections 70016.1 and 70214 of Title 22 of the California Code*
38 *of Regulations.*

1 (d) An orientee shall not be included in the calculation of the
2 licensed nurse-to-patient ratio required by Section 1276.4.

3 (e) As used in this section, “orientee” means a direct care
4 registered nurse who has not received and completed orientation
5 to the hospital and patient care unit or clinical area and whose
6 current competency has not been demonstrated and validated.

7 (f) Paragraph (2) of subdivision (b) shall not apply to a state
8 inpatient mental health hospital, as identified in Section 4100 of
9 the Welfare and Institutions Code, a state developmental center,
10 as identified in Section 4440 of the Welfare and Institutions Code,
11 a state veterans’ home, as defined in Chapter 1 (commencing with
12 Section 1010) of Division 5 of the Military and Veterans Code, or
13 a correctional institution operated by the State Department of
14 Corrections and Rehabilitation pursuant to Title 7 (commencing
15 with Section 5000) of Part 3 of the Penal Code.

16 SECTION 1. Section 1279 of the Health and Safety Code is
17 amended to read:

18 ~~1279. (a) Every health facility for which a license or special~~
19 ~~permit has been issued shall be periodically inspected by the~~
20 ~~department, or by another governmental entity under contract with~~
21 ~~the department. The frequency of inspections shall vary, depending~~
22 ~~upon the type and complexity of the health facility or special~~
23 ~~service to be inspected, unless otherwise specified by state or~~
24 ~~federal law or regulation. The inspection shall include participation~~
25 ~~by the California Medical Association consistent with the manner~~
26 ~~in which it participated in inspections, as provided in Section 1282~~
27 ~~prior to September 15, 1992.~~

28 ~~(b) Except as provided in subdivision (c), inspections shall be~~
29 ~~conducted no less than once every two years and as often as~~
30 ~~necessary to ensure the quality of care being provided.~~

31 ~~(c) For a health facility specified in subdivision (a), (b), or (f)~~
32 ~~of Section 1250, inspections shall be conducted no less than once~~
33 ~~every three years, and as often as necessary to ensure the quality~~
34 ~~of care being provided.~~

35 ~~(d) During the inspection, the representative or representatives~~
36 ~~shall offer such advice and assistance to the health facility as they~~
37 ~~deem appropriate.~~

38 ~~(e) For acute care hospitals of 100 beds or more, the inspection~~
39 ~~team shall include at least a physician, registered nurse, and persons~~
40 ~~experienced in hospital administration and sanitary inspections.~~

1 During the inspection, the team shall offer advice and assistance
2 to the hospital as it deems appropriate.

3 ~~(f) The department shall ensure that a periodic inspection~~
4 ~~conducted pursuant to this section is not announced in advance of~~
5 ~~the date of inspection. An inspection may be conducted jointly~~
6 ~~with inspections by entities specified in Section 1282. However,~~
7 ~~if the department conducts an inspection jointly with an entity~~
8 ~~specified in Section 1282 that provides notice in advance of the~~
9 ~~periodic inspection, the department shall conduct an additional~~
10 ~~periodic inspection that is not announced or noticed to the health~~
11 ~~facility.~~

12 ~~(g) Notwithstanding any other law, the department shall inspect~~
13 ~~for compliance with state law, including, but not limited to, Section~~
14 ~~1276.4, and regulations during a state periodic inspection or at the~~
15 ~~same time as a federal periodic inspection, including, but not~~
16 ~~limited to, an inspection required under this section. If a health~~
17 ~~facility has been notified of a deficiency in its compliance with~~
18 ~~Section 1276.4 and the health facility files a plan of correction,~~
19 ~~the department shall also inspect for compliance with this plan of~~
20 ~~correction. If the department inspects for compliance with state~~
21 ~~law and regulations at the same time as a federal periodic~~
22 ~~inspection, the inspection shall be done consistent with the~~
23 ~~guidance of the federal Centers for Medicare and Medicaid Services~~
24 ~~for the federal portion of the inspection.~~

25 ~~(h) The department shall emphasize consistency across the state~~
26 ~~and its district offices when conducting licensing and certification~~
27 ~~surveys and complaint investigations, including the selection of~~
28 ~~state or federal enforcement remedies in accordance with Section~~
29 ~~1423. The department may issue federal deficiencies and~~
30 ~~recommmend federal enforcement actions in those circumstances~~
31 ~~where they provide more rigorous enforcement action.~~

32 ~~SEC. 2. Section 1280.7 is added to the Health and Safety Code,~~
33 ~~to read:~~

34 ~~1280.7. (a) If a health facility has been notified of a deficiency~~
35 ~~in its compliance with Section 1276.4, the notice of deficiency,~~
36 ~~along with an approved plan of correction, shall be posted in the~~
37 ~~nurses' station or designated nurses' area of the unit of the health~~
38 ~~facility where the deficiency occurred until the department~~
39 ~~determines that the health facility has complied with the approved~~
40 ~~plan of correction.~~

1 ~~(b) (1) Notwithstanding Section 1280.3, the department shall~~
2 ~~assess an administrative penalty in the amount of ten thousand~~
3 ~~dollars (\$10,000) for the fourth and for each subsequent violation~~
4 ~~of Section 1276.4 within a continuous six-month period.~~

5 ~~(2) Notwithstanding Section 1280.3, and in addition to an~~
6 ~~administrative penalty assessed pursuant to paragraph (1), the~~
7 ~~department shall also assess an administrative penalty in the~~
8 ~~amount of ten thousand dollars (\$10,000) for the failure of a health~~
9 ~~facility to comply with an approved plan of correction filed with~~
10 ~~the department in response to a deficiency in compliance with~~
11 ~~Section 1276.4.~~

12 ~~(e) Moneys collected by the department as a result of~~
13 ~~administrative penalties imposed under this section shall be~~
14 ~~deposited in the Licensing and Certification Program Fund~~
15 ~~established pursuant to Section 1266.9. These moneys shall be~~
16 ~~tracked and available for expenditure, upon appropriation by the~~
17 ~~Legislature, to support internal departmental quality improvement~~
18 ~~activities.~~

19 ~~SEC. 3.~~

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