

AMENDED IN SENATE MARCH 20, 2012

SENATE BILL

No. 1079

Introduced by Senator Rubio

February 14, 2012

An act to add Article 6 (commencing with Section 2695) to Chapter 4 of Title 1 of Part 3 of the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

SB 1079, as amended, Rubio. Inmates: medical treatment.

Existing law vests responsibility in the Secretary of the Department of Corrections and Rehabilitation for the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined ~~therein in a state prison~~, and authorizes ~~him or her~~ *the secretary* to prescribe and amend rules and regulations for the administration of the prisons. Pursuant to this authority, existing regulations require the department to provide medical services for inmates based on medical necessity but not for certain treatments, surgeries, and services, as specified.

This bill would codify those regulations and ~~provide that it is declaratory of existing law~~ *would include treatment for sexual dysfunction, fertility, or infertility, and surgery for gender reassignment or weight reduction, in the class of surgery not medically necessary that would not be provided.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

SECTION 1. Article 6 (commencing with Section 2695) is added to Chapter 4 of Title 1 of Part 3 of the Penal Code, to read:

Article 6. Medical Care

2695. (a) The department shall only provide medical services for inmates that are based on medical necessity and supported by outcome data as effective medical care. In the absence of available outcome data for a specific case, treatment ~~will~~ *shall* be based on the judgment of the physician that the treatment is considered effective for the purpose intended and is supported by diagnostic information and consultations with appropriate specialists. Treatments for conditions that might otherwise be excluded may be allowed pursuant to subdivision (e) of Section 2696.

(b) For the purposes of this article, the following definitions apply:

(1) “Medically necessary” means health care services that are determined by the attending physician to be reasonable and necessary to protect life, prevent significant illness or disability, or alleviate severe pain, and are supported by health outcome data as being effective medical care.

(2) “Outcome data” means statistics like diagnoses, procedures, discharge status, length of hospital stay, morbidity, and mortality of patients, that are collected and evaluated using science-based methodologies and expert clinical judgment for purposes of outcome studies.

(3) “Outcome study” means the definition, collection, and analysis of comparable data, based on variations in treatment, concerning patient health assessment for purposes of improving outcomes and identifying cost-effective alternatives.

(4) “Severe pain” means a degree of discomfort that significantly disables the patient from reasonable independent function.

(5) “Significant illness and disability” means a medical condition that causes or may cause, if left untreated, a severe limitation of function or ability to perform the daily activities of life or that may cause premature death.

2696. (a) For purposes of this section, “treatment” refers to attempted curative treatment and does not preclude palliative

1 therapies to alleviate serious debilitating conditions such as pain
2 management and nutritional support.

3 (b) Treatment shall not be provided pursuant to this article for
4 the following conditions:

5 (1) Conditions that improve on their own without treatment,
6 including, but not limited to, the following:

7 (A) Common cold.

8 (B) Mononucleosis.

9 (C) Viral hepatitis A.

10 (D) Viral pharyngitis.

11 (E) Mild sprains.

12 (2) Conditions that are not readily amenable to treatment,
13 including, but not limited to, those that may be made worse by
14 treatment with conventional medication or surgery, and those that
15 are so advanced in the disease process that the outcome would not
16 change with existing conventional or heroic treatment regimens.

17 Examples include, but are not limited to, the following:

18 (A) Multiple organ transplants.

19 (B) Temporomandibular joint dysfunction.

20 (C) Grossly metastatic cancer.

21 (3) Conditions that are cosmetic, including, but not limited to,
22 the following:

23 (A) Removal of tattoos.

24 (B) Removal of nontoxic goiter.

25 (C) Breast reduction or enlargement.

26 (D) Penile implants.

27 (c) Surgery not medically necessary shall not be provided
28 pursuant to this article, including, but not limited to, the following:

29 (1) Castration.

30 (2) Vaginoplasty, except for cystocele or rectocele.

31 (3) Vasectomy.

32 (4) Tubal ligation.

33 (5) *Treatment for sexual dysfunction, fertility, or infertility.*

34 (6) *Gender reassignment surgery.*

35 (7) *Weight reduction surgery.*

36 (d) Services that have no established outcome on morbidity or
37 improved mortality for acute health conditions shall not be
38 provided pursuant to this article, including, but not limited to:

39 (1) Acupuncture.

40 (2) Orthoptics.

1 (3) Pleoptics.

2 (e) Treatment for those conditions that are excluded within this
3 article may be provided in cases where both of the following
4 criteria are met:

5 (1) The inmate's attending physician or dentist prescribes the
6 treatment.

7 (2) The service is approved by the medical authorization review
8 committee, or the dental authorization review committee, and the
9 health care review committee. The decision of the applicable
10 review committee to approve an otherwise excluded service shall
11 be based on both of the following:

12 (A) Available health and dental care outcome data supporting
13 the effectiveness of the services as medical or dental treatment.

14 (B) Other factors, including, but not limited to, the following:

15 (i) Coexisting medical or dental problems.

16 (ii) Acuity.

17 (iii) Length of the inmate's sentence.

18 (iv) Availability of the service.

19 (v) Cost.

20 ~~SEC. 2. The addition of Article 6 (commencing with Section~~
21 ~~2695) to Chapter 4 of Title 1 of Part 3 of the Penal Code made by~~
22 ~~this act does not constitute a change in, but is declaratory of,~~
23 ~~existing law.~~