

AMENDED IN ASSEMBLY AUGUST 6, 2014

AMENDED IN ASSEMBLY JUNE 25, 2013

AMENDED IN ASSEMBLY JUNE 10, 2013

AMENDED IN SENATE APRIL 16, 2013

SENATE BILL

No. 455

Introduced by Senator Hernandez

February 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 455, as amended, Hernandez. General acute care hospitals: ~~patient classification system.~~ *nurse-to-patient ratios.*

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities, as defined.

Existing law requires the department to adopt regulations governing the operation of a health facility, including, but not limited to, regulations that require prescribed health facilities to meet minimum nurse-to-patient ratios, and to assign additional staff according to a documented patient classification system for determining nursing care requirements. Violation of these provisions, or willful or repeated violation of the rules or regulations, is a crime.

This bill would, with respect to this patient classification system, require that a committee for each general acute care hospital review the reliability of this system for validating staffing requirements at least annually to determine whether the system accurately measures patient care needs. The bill would require that at least 50% of the committee

members be registered nurses who provide direct patient care. The bill would require that these nurses be appointed by the bargaining agent of the registered nurses, if any, and in the absence of a bargaining agent, by the nursing administrator. The bill would require the remaining members of the committee to be appointed by the nursing administrator. By changing the definition of an existing crime, this bill would impose a state-mandated local program.

This bill would state that it is the Legislature's intent in enacting ~~this bill~~ *these provisions* to supersede specified provisions of a certain regulation, and not to affect any other ~~provision~~ of law.

Existing law requires the department to periodically inspect every licensed health facility for compliance with state law and regulations.

This bill would require the department, during its periodic inspection of a general acute care hospital, to inspect for compliance with the minimum nurse-to-patient ratios established pursuant to existing law.

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, immediately following Section 1276.4, to read:
- 3 1276.45. (a) With respect to the patient classification system
- 4 referenced in subdivision (b) of Section 1276.4, a committee for
- 5 each general acute care hospital shall review the reliability of this
- 6 system for validating staffing requirements at least annually to
- 7 determine whether or not the system accurately measures patient
- 8 care needs.
- 9 (b) (1) At least 50 percent of the committee members shall be
- 10 registered nurses who provide direct patient care. These registered
- 11 nurses shall be appointed by the bargaining agent of the registered
- 12 nurses, if any, and in the absence of a bargaining agent, shall be
- 13 appointed by the nursing administrator.
- 14 (2) The remaining members of the committee shall be appointed
- 15 by the nursing administrator.

1 *SEC. 2. Section 1279 of the Health and Safety Code is amended*
2 *to read:*

3 1279. (a) Every health facility for which a license or special
4 permit has been issued shall be periodically inspected by the
5 department, or by another governmental entity under contract with
6 the department. The frequency of inspections shall vary, depending
7 upon the type and complexity of the health facility or special
8 service to be inspected, unless otherwise specified by state or
9 federal law or regulation. The inspection shall include participation
10 by the California Medical Association consistent with the manner
11 in which it participated in inspections, as provided in Section 1282
12 prior to September 15, 1992.

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

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

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

23 (e) For acute care hospitals of 100 beds or more, the inspection
24 team shall include at least a physician, registered nurse, and persons
25 experienced in hospital administration and sanitary inspections.
26 During the inspection, the team shall offer advice and assistance
27 to the hospital as it deems appropriate.

28 (f) The department shall ensure that a periodic inspection
29 conducted pursuant to this section is not announced in advance of
30 the date of inspection. An inspection may be conducted jointly
31 with inspections by entities specified in Section 1282. However,
32 if the department conducts an inspection jointly with an entity
33 specified in Section 1282 that provides notice in advance of the
34 periodic inspection, the department shall conduct an additional
35 periodic inspection that is not announced or noticed to the health
36 facility.

37 (g) *(1)* Notwithstanding any other ~~provision~~ of law, the
38 department shall inspect for compliance with ~~provisions~~ of state
39 law and regulations during a state periodic inspection or at the
40 same time as a federal periodic inspection, including, but not

1 limited to, an inspection required under this section. If the
2 department inspects for compliance with state law and regulations
3 at the same time as a federal periodic inspection, the inspection
4 shall be done consistent with the guidance of the federal Centers
5 for Medicare and Medicaid Services for the federal portion of the
6 inspection.

7 *(2) During every periodic state inspection of a general acute*
8 *care hospital, the department shall inspect for compliance with*
9 *the nurse-to-patient ratios established pursuant to Section 1276.4.*

10 (h) The department shall emphasize consistency across the state
11 and its district offices when conducting licensing and certification
12 surveys and complaint investigations, including the selection of
13 state or federal enforcement remedies in accordance with Section
14 1423. The department may issue federal deficiencies and
15 recommend federal enforcement actions in those circumstances
16 where they provide more rigorous enforcement action.

17 ~~SEC. 2.~~

18 *SEC. 3.* It is the intent of the Legislature in enacting Section
19 1276.45 of the Health and Safety Code to supersede subdivisions
20 (e) and (f) of Section 70217 of Title 22 of the California Code of
21 Regulations, and not to affect any other provision of law.

22 ~~SEC. 3.~~

23 *SEC. 4.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.