

Introduced by Senator HernandezFebruary 21, 2013

An act to amend Sections 1225, 1242, and 1275.3 of, and to add Sections 1735.1 and 1755.1 to, the Health and Safety Code, relating to health and care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as introduced, Hernandez. Health and care facilities.

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, the licensure and regulation of primary care clinics, specialty clinics, home health agencies, and hospice providers. Violation of these provisions is a crime.

This bill would, until the department adopts regulations relating to the provision of services by a chronic dialysis clinic, a surgical clinic, or a rehabilitation clinic, require those clinics to comply with prescribed federal certification standards in effect immediately preceding January 1, 2013. Because a violation of that requirement would be a crime, the bill would impose a state-mandated local program.

Existing law requires the State Department of Public Health and the State Department of Developmental Services to jointly develop and implement licensing regulations appropriate for intermediate care facilities/developmentally disabled-nursing and intermediate care facility/developmentally disabled-continuous nursing.

This bill would, until the departments adopt those regulations, require that the facilities comply with applicable federal certification standards for intermediate care facilities for individuals with intellectual disabilities in effect immediately preceding January 1, 2013.

Existing law authorizes the State Department of Public Health to temporarily suspend the license or special permit of a specialty clinic prior to a hearing if the action is necessary to protect the public health.

This bill would establish similar authority for temporary suspension of a license for a primary care clinic, home health agency and for a provider of hospice services, and would make technical and conforming changes.

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 1225 of the Health and Safety Code is
2 amended to read:

3 1225. (a) The state department shall adopt, and may from
4 time to time amend or repeal, in accordance with Chapter 4.5 3.5
5 (commencing with Section ~~11371~~ 11340) of Part 1 of Division 3
6 of Title 2 of the Government Code, ~~such~~ reasonable rules and
7 regulations as may be necessary or proper to carry out the purposes
8 and intent of this chapter and to enable the state department to
9 exercise the powers and perform the duties conferred upon it by
10 this chapter, not inconsistent with any of the provisions of any
11 statute of this state. ~~The~~

12 (b) *The* rules and regulations for primary care clinics shall be
13 separate and distinct from the rules and regulations for specialty
14 clinics.

15 ~~All~~

16 (c) *All* regulations relating to licensed clinics in effect on
17 December 31, 1977, which were adopted by the state department,
18 shall remain in full force and effect until altered, amended, or
19 repealed by the director.

20 (d) *Until the state department adopts regulations relating to*
21 *the provision of services by a chronic dialysis clinic, a surgical*
22 *clinic, or a rehabilitation clinic, the following clinics licensed or*
23 *seeking licensure shall comply with the following federal*

1 *certification standards in effect immediately preceding January*
2 *1, 2013:*

3 *(1) A chronic dialysis clinic shall comply with applicable federal*
4 *certification standards for an end stage renal disease clinic.*

5 *(2) A surgical clinic shall comply with applicable federal*
6 *certification standards for an ambulatory surgical clinic.*

7 *(3) A rehabilitation clinic shall comply with applicable federal*
8 *certification standards for a comprehensive outpatient*
9 *rehabilitation facility.*

10 SEC. 2. Section 1242 of the Health and Safety Code is amended
11 to read:

12 1242. (a) The director may temporarily suspend any license
13 issued to a ~~specialty~~ clinic, *defined in Section 1204*, or special
14 permit prior to any hearing, when in his *or her* opinion ~~such the~~
15 action is necessary to protect the public welfare. The director shall
16 notify the licensee or holder of a special permit of the temporary
17 suspension and the effective date thereof, and at the same time
18 shall serve ~~such provider~~ *the licensee or holder of a special permit*
19 *with an accusation. Upon*

20 *(b) Upon* receipt of a notice of defense by the licensee or holder
21 of a special permit, the director shall ~~set the request that the~~ matter
22 *be set* for hearing within 30 days after receipt of ~~such the~~ notice.
23 The temporary suspension shall remain in effect until ~~such time~~
24 *as* the hearing is completed and the director has made a final
25 determination on the merits; provided, however, that the temporary
26 suspension shall be deemed vacated if the director fails to make a
27 final determination on the merits within 60 days after the original
28 hearing has been completed.

29 ~~If the provisions of~~

30 *(c) If* this chapter or the rules or regulations promulgated by the
31 director are violated by a licensed ~~surgical clinic or chronic dialysis~~
32 clinic or holder of a special permit which is a group, corporation,
33 or other association, the director may suspend the license or special
34 permit of ~~such that~~ organization or may suspend the license or
35 special permit as to any individual person within ~~such the~~
36 organization who is responsible for ~~such the~~ violation.

37 SEC. 3. Section 1275.3 of the Health and Safety Code is
38 amended to read:

39 1275.3. (a) The State Department of Public Health and the
40 State Department of Developmental Services shall jointly develop

1 and implement licensing regulations appropriate for intermediate
2 care facilities/developmentally disabled-nursing and intermediate
3 care facility/developmentally disabled-continuous nursing.

4 (b) The regulations adopted pursuant to subdivision (a) shall
5 ensure that residents of intermediate care facilities/developmentally
6 disabled-nursing and intermediate care facility/developmentally
7 disabled-continuous nursing receive appropriate medical and
8 nursing services, and developmental program services in a
9 normalized, least restrictive physical and programmatic
10 environment appropriate to individual resident need.

11 In addition, the regulations shall do all of the following:

12 (1) Include provisions for the completion of a clinical and
13 developmental assessment of placement needs, including medical
14 and other needs, and the degree to which they are being met, of
15 clients placed in an intermediate care facility/developmentally
16 disabled-nursing and intermediate care facility/developmentally
17 disabled-continuous nursing and for the monitoring of these needs
18 at regular intervals.

19 (2) Provide for maximum utilization of generic community
20 resources by clients residing in a facility.

21 (3) Require the State Department of Developmental Services
22 to review and approve an applicant's *facility* program plan as ~~part~~
23 ~~of a prerequisite to~~ the licensing and certification process.

24 (4) Require that the physician providing the certification that
25 placement in the intermediate care facility/developmentally
26 disabled-nursing or intermediate care facility/developmentally
27 disabled-continuous nursing is needed, consult with the physician
28 who was the physician of record at the time the person's proposed
29 placement is being considered by the interdisciplinary team.

30 ~~(e) Regulations developed pursuant to this section shall include~~
31 ~~licensing fee schedules appropriate to facilities which will~~
32 ~~encourage their development.~~

33 (c) *Until the departments adopt regulations pursuant to this*
34 *section, relating to services by intermediate care*
35 *facilities/developmentally disabled-nursing, licensed intermediate*
36 *care facilities/developmentally disabled-nursing shall comply with*
37 *applicable federal certification standards for intermediate care*
38 *facilities for individuals with intellectual disabilities in effect*
39 *immediately preceding January 1, 2013.*

1 (d) Nothing in this section supersedes the authority of the State
2 Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and
3 13143.6 to the extent that these sections are applicable to
4 community care facilities.

5 SEC. 4. Section 1735.1 is added to the Health and Safety Code,
6 to read:

7 1735.1. (a) The director may temporarily suspend any license
8 prior to any hearing when, in his or her opinion, the action is
9 necessary to protect the public welfare. The director shall notify
10 the licensee of the temporary suspension and the effective date
11 thereof and, at the same time, shall serve the licensee with an
12 accusation.

13 (b) Upon receipt of a notice of defense by the licensee the
14 director shall, within 15 days, request that the matter be set for
15 hearing, which shall be held as soon as possible but not later than
16 30 days after receipt of the notice. The temporary suspension shall
17 remain in effect until the hearing is completed and the director has
18 made a final determination on the merits. However, the temporary
19 suspension shall be deemed vacated if the director fails to make a
20 final determination on the merits within 60 days after the original
21 hearing has been completed.

22 (c) If this chapter, or regulations adopted pursuant to this
23 chapter, are violated by a licensee that is a group, corporation, or
24 other association, the director may suspend the license of that
25 organization or may suspend the license as to any individual or
26 person within the organization who is responsible for the violation.

27 SEC. 5. Section 1755.1 is added to the Health and Safety Code,
28 to read:

29 1755.1. (a) The director may temporarily suspend any license
30 prior to any hearing when, in his or her opinion, the action is
31 necessary to protect the public welfare. The director shall notify
32 the licensee of the temporary suspension and the effective date
33 thereof and, at the same time, shall serve the licensee with an
34 accusation.

35 (b) Upon receipt of a notice of defense by the licensee the
36 director shall, within 15 days, request that the matter be set for
37 hearing, which shall be held as soon as possible but not later than
38 30 days after receipt of the notice. The temporary suspension shall
39 remain in effect until the hearing is completed and the director has
40 made a final determination on the merits. However, the temporary

1 suspension shall be deemed vacated if the director fails to make a
2 final determination on the merits within 60 days after the original
3 hearing has been completed.

4 (c) If this chapter, or regulations adopted pursuant to this
5 chapter, are violated by a licensee that is a group, corporation, or
6 other association, the director may suspend the license of that
7 organization or may suspend the license as to any individual or
8 person within the organization who is responsible for the violation.

9 SEC. 6. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.