

AMENDED IN ASSEMBLY SEPTEMBER 4, 2013

AMENDED IN ASSEMBLY JULY 3, 2013

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 534**

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**Introduced by Senator Hernandez**

*(Principal coauthor: Assembly Member Cooley)*

*(Coauthor: Senator Steinberg)*

February 21, 2013

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An act to *amend Section 1267.15 of, and to amend, repeal, and add Sections 1225 and 1275.3 of, the Health and Safety Code, relating to health and care facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as amended, 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 and specialty clinics. 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. The bill would require the department, by July 1, 2017, to conduct a public hearing and submit a prescribed report to the appropriate legislative committees. These provisions would become inoperative on January 1, 2018.

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 facility/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. These provisions would become inoperative on January 1, 2018.

*Existing law provides for the licensure and regulation by the State Department of Public Health of congregate living health facilities. Under existing law, a congregate living health facility is a residential home with a capacity of no more than 12 beds, except as provided, that provides inpatient care to persons with prescribed conditions, including persons who have a diagnosis of terminal illness or who are catastrophically and severely disabled. Existing law requires that a congregate living health facility be freestanding, but specifies that this does not preclude its location on the premises of a hospital.*

*This bill would authorize the establishment of multiple congregate living health facilities in one multifloor building if certain requirements are met, including, among others, that each facility is separated by a wall, floor, or other permanent partition, and is located on former McClellan Air Force Base, as specified.*

*This bill would make legislative findings and declarations as to the necessity of a special statute for these congregate living facilities.*

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 department shall adopt, and may from time to
- 4 time amend or repeal, in accordance with Chapter 3.5 (commencing

1 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
2 Government Code, reasonable rules and regulations as may be  
3 necessary or proper to carry out the purposes and intent of this  
4 chapter and to enable the department to exercise the powers and  
5 perform the duties conferred upon it by this chapter, not  
6 inconsistent with any of the provisions of any statute of this state.

7 (b) The rules and regulations for primary care clinics shall be  
8 separate and distinct from the rules and regulations for specialty  
9 clinics.

10 (c) All regulations relating to licensed clinics in effect on  
11 December 31, 1977, that were adopted by the department, shall  
12 remain in full force and effect until altered, amended, or repealed  
13 by the director.

14 (d) Until the department adopts regulations relating to the  
15 provision of services by a chronic dialysis clinic, a surgical clinic,  
16 or a rehabilitation clinic, the following clinics licensed or seeking  
17 licensure shall comply with the following federal certification  
18 standards in effect immediately preceding January 1, 2013:

19 (1) A chronic dialysis clinic shall comply with federal  
20 certification standards for an end stage renal disease clinic, as  
21 specified in Sections 494.1 to 494.180, inclusive, of Title 42 of  
22 the Code of Federal Regulations.

23 (2) A surgical clinic, as defined in subdivision (b) of Section  
24 1204, shall comply with federal certification standards for an  
25 ambulatory surgical clinic, as specified in Sections 416.1 to 416.52,  
26 inclusive, of Title 42 of the Code of Federal Regulations.

27 (3) A rehabilitation clinic shall comply with federal certification  
28 standards for a comprehensive outpatient rehabilitation facility,  
29 as specified in Sections 485.50 to 485.74, inclusive, of Title 42 of  
30 the Code of Federal Regulations.

31 (e) The department shall, by July 1, 2017, conduct at least one  
32 public hearing and submit a report to the appropriate legislative  
33 committees that describes the extent to which the federal  
34 certification standards are or are not sufficient as a basis for state  
35 licensing standards. The report shall make recommendations for  
36 any California-specific standards that may be necessary.

37 (f) This section shall remain in effect only until January 1, 2018,  
38 and as of that date is repealed, unless a later enacted statute, that  
39 is enacted before January 1, 2018, deletes or extends that date.

1 SEC. 2. Section 1225 is added to the Health and Safety Code,  
2 to read:

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

13 (b) All regulations relating to licensed clinics in effect on  
14 December 31, 1977, which were adopted by the department, shall  
15 remain in full force and effect until altered, amended, or repealed  
16 by the director.

17 (c) This section shall become operative on January 1, 2018.

18 SEC. 3. Section 1267.15 of the Health and Safety Code is  
19 amended to read:

20 1267.15. (a) Congregate living health facilities shall be  
21 freestanding, but this does not preclude their location on the  
22 premises of a hospital. Congregate living health facilities shall be  
23 separately licensed.

24 (b) Notwithstanding subdivision (a), multiple congregate living  
25 health facilities may exist in one multifloor building if all of the  
26 following requirements are satisfied:

27 (1) Each facility meets other applicable building standards not  
28 related to multiple floors.

29 (2) Each facility is separated by a wall, floor, or other  
30 permanent partition but may share an elevator, stairs, or stairwell,  
31 and need not be freestanding.

32 (3) Proposals to develop proximate congregate living health  
33 facilities are supported by the county health department and the  
34 board of supervisors in the county in which the facilities are to be  
35 located.

36 (4) The congregate living health facilities are proposed for one  
37 of the following locations:

38 (A) McClellan Air Force Base Building No. 522, located at  
39 3201 James Way, McClellan, California.

1 (B) McClellan Air Force Base Building No. 523, located at  
2 3207 James Way, McClellan, California.

3 (C) McClellan Air Force Base Building No. 524, located at  
4 5621 Dudley Blvd, McClellan, California.

5 (D) McClellan Air Force Base Building No. 525, located at  
6 5327 Dudley Blvd, McClellan, California.

7 ~~SEC. 3.~~

8 SEC. 4. Section 1275.3 of the Health and Safety Code is  
9 amended to read:

10 1275.3. (a) The State Department of Public Health and the  
11 State Department of Developmental Services shall jointly develop  
12 and implement licensing regulations appropriate for intermediate  
13 care facility/developmentally disabled-nursing and intermediate  
14 care facility/developmentally disabled-continuous nursing.

15 (b) The regulations adopted pursuant to subdivision (a) shall  
16 ensure that residents of intermediate care facility/developmentally  
17 disabled-nursing and intermediate care facility/developmentally  
18 disabled-continuous nursing receive appropriate medical and  
19 nursing services, and developmental program services in a  
20 normalized, least restrictive physical and programmatic  
21 environment appropriate to individual resident need.

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

23 (1) Include provisions for the completion of a clinical and  
24 developmental assessment of placement needs, including medical  
25 and other needs, and the degree to which they are being met, of  
26 clients placed in an intermediate care facility/developmentally  
27 disabled-nursing and intermediate care facility/developmentally  
28 disabled-continuous nursing and for the monitoring of these needs  
29 at regular intervals.

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

32 (3) Require the State Department of Developmental Services  
33 to review and approve an applicant's facility program plan as a  
34 prerequisite to the licensing and certification process.

35 (4) Require that the physician providing the certification that  
36 placement in the intermediate care facility/developmentally  
37 disabled-nursing or intermediate care facility/developmentally  
38 disabled-continuous nursing is needed, consult with the physician  
39 who was the physician of record at the time the person's proposed  
40 placement is being considered by the interdisciplinary team.

1 (c) Until the departments adopt regulations pursuant to this  
2 section; relating to services by intermediate care  
3 facilities/developmentally disabled-nursing, licensed intermediate  
4 care facilities/developmentally disabled-nursing shall comply with  
5 federal certification standards for intermediate care facilities for  
6 individuals with intellectual disabilities, as specified in Sections  
7 483.400 to 483.480, inclusive, of Title 42 of the Code of Federal  
8 Regulations, in effect immediately preceding January 1, 2013.

9 (d) Nothing in this section supersedes the authority of the State  
10 Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and  
11 13143.6 to the extent that these sections are applicable to  
12 community care facilities.

13 (e) This section shall remain in effect only until January 1, 2018,  
14 and as of that date is repealed, unless a later enacted statute, that  
15 is enacted before January 1, 2018, deletes or extends that date.

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 1275.3 is added to the Health and Safety Code,  
18 to read:

19 1275.3. (a) The State Department of Public Health and the  
20 State Department of Developmental Services shall jointly develop  
21 and implement licensing regulations appropriate for intermediate  
22 care facility/developmentally disabled-nursing and intermediate  
23 care facility/developmentally disabled-continuous nursing.

24 (b) The regulations adopted pursuant to subdivision (a) shall  
25 ensure that residents of intermediate care facility/developmentally  
26 disabled-nursing and intermediate care facility/developmentally  
27 disabled-continuous nursing receive appropriate medical and  
28 nursing services, and developmental program services in a  
29 normalized, least restrictive physical and programmatic  
30 environment appropriate to individual resident need.

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

32 (1) Include provisions for the completion of a clinical and  
33 developmental assessment of placement needs, including medical  
34 and other needs, and the degree to which they are being met, of  
35 clients placed in an intermediate care facility/developmentally  
36 disabled-nursing and intermediate care facility/developmentally  
37 disabled-continuous nursing and for the monitoring of these needs  
38 at regular intervals.

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

1 (3) Require the State Department of Developmental Services  
2 to review and approve an applicant’s program plan as part of the  
3 licensing and certification process.

4 (4) Require that the physician providing the certification that  
5 placement in the intermediate care facility/developmentally  
6 disabled-nursing or intermediate care facility/developmentally  
7 disabled-continuous nursing is needed, consult with the physician  
8 who was the physician of record at the time the person’s proposed  
9 placement is being considered by the interdisciplinary team.

10 (c) Regulations developed pursuant to this section shall include  
11 licensing fee schedules appropriate to facilities which will  
12 encourage their development.

13 (d) Nothing in this section supersedes the authority of the State  
14 Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and  
15 13143.6 to the extent that these sections are applicable to  
16 community care facilities.

17 (e) This section shall become operative on January 1, 2018.

18 *SEC. 6. The Legislature finds and declares that, with respect*  
19 *to Section 3 of this act, a special law is necessary and a general*  
20 *law cannot be made applicable within the meaning of Section 16*  
21 *of Article IV of the California Constitution because of the unique*  
22 *circumstances relating to the need for congregate living health*  
23 *facilities in and around the County of Sacramento.*

24 ~~SEC. 5.~~

25 *SEC. 7. No reimbursement is required by this act pursuant to*  
26 *Section 6 of Article XIII B of the California Constitution because*  
27 *the only costs that may be incurred by a local agency or school*  
28 *district will be incurred because this act creates a new crime or*  
29 *infraction, eliminates a crime or infraction, or changes the penalty*  
30 *for a crime or infraction, within the meaning of Section 17556 of*  
31 *the Government Code, or changes the definition of a crime within*  
32 *the meaning of Section 6 of Article XIII B of the California*  
33 *Constitution.*