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AMENDED IN ASSEMBLY MAY 7, 1996
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CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2616

**Introduced by Assembly Members Woods, Hannigan,
Hauser, and Hawkins**
(Coauthors: Senators Haynes, Johannessen, O'Connell, and
Thompson)

February 21, 1996

An act to amend Section 1250.2 of the Health and Safety Code, and to amend ~~Section 4080~~ *Sections 4080 and 6003.1* of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, as amended, Woods. Mental health facilities.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Existing law defines a health facility to include a psychiatric health facility licensed by the State Department of Mental Health.

This bill would provide that notwithstanding any other provision of law, and to the extent consistent with federal law, a psychiatric health facility shall be eligible to participate in various federal programs if certain conditions are met.

Existing law provides for the sale or lease of property within the boundaries of Camarillo State Hospital to Ventura County to sublet the property to a nonprofit organization for the purpose of constructing and operating a children’s crisis care center to provide an alternative to emergency shelter home placement, and requires the facility to provide for an interagency program for the delivery of medical, educational, and mental health screening, crisis intervention, short-term mental health treatment, and case management services for children who are removed from their families due to abuse, neglect, abandonment, sexual molestation, or who are in acute mental health crisis requiring short-term nonhospital care and supervision.

Existing law establishes procedures regarding voluntary admissions to county psychiatric health facilities, and defines that term to mean the nonhospital 24-hour acute care facility provided by the county pursuant to the requirements stated above.

This bill would exclude the reference limiting the definition of psychiatric health facilities to nonhospital facilities.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 1250.2 of the Health and Safety
- 2 Code is amended to read:
- 3 1250.2. (a) As defined in Section 1250, “health
- 4 facility” includes the following type: “psychiatric health
- 5 facility” means a health facility, licensed by the State
- 6 Department of Mental Health, which provides 24-hour
- 7 inpatient care for mentally disordered, incompetent, or
- 8 other persons described in Division 5 (commencing with
- 9 Section 5000) or Division 6 (commencing with Section



1 6000) of the Welfare and Institutions Code. This care shall
2 include, but not be limited to, the following basic services:
3 psychiatry, clinical psychology, psychiatric nursing, social
4 work, rehabilitation, drug administration, and
5 appropriate food services for those persons whose
6 physical health needs can be met in an affiliated hospital
7 or in outpatient settings.

8 It is the intent of the Legislature that the psychiatric
9 health facility shall provide a distinct type of service to
10 psychiatric patients in a 24-hour acute inpatient setting.
11 The State Department of Mental Health shall require
12 regular utilization reviews of admission and discharge
13 criteria and lengths of stays in order to assure that these
14 patients are moved to less restrictive levels of care as soon
15 as appropriate.

16 (b) The State Department of Mental Health may issue
17 a special permit to a psychiatric health facility for it to
18 provide structured outpatient services (commonly
19 referred to as SOPS) consisting of morning, afternoon, or
20 full daytime organized programs, not exceeding 10 hours,
21 for acute daytime care for patients admitted to the
22 facility. This subdivision shall not be construed as
23 requiring a psychiatric health facility to apply for a special
24 permit to provide these alternative levels of care.

25 The Legislature recognizes that with access to
26 structured outpatient services, as an alternative to
27 24-hour inpatient care, certain patients would be
28 provided with effective intervention and less restrictive
29 levels of care. The Legislature further recognizes that
30 certain patients, the less restrictive levels of care
31 eliminate the need for inpatient care, enable earlier
32 discharge from inpatient care by providing a continuum
33 of care with effective aftercare services, or reduce or
34 prevent the need for a subsequent readmission to
35 inpatient care.

36 (c) Any reference in any statute to Section 1250 shall
37 be deemed and construed to also be a reference to this
38 section.

39 (d) Notwithstanding any other provision of law, and to
40 the extent consistent with federal law, a psychiatric



1 health facility shall be eligible to participate in the
2 medicare program under Title XVIII of the federal Social
3 Security Act (42 U.S.C. Sec. 1395 et seq.), and the
4 medicaid program under Title XIX of the federal Social
5 Security Act (42 U.S.C. Sec. 1396 et seq.), if all of the
6 following conditions are met:

7 (1) The facility is a licensed facility.

8 (2) The facility is in compliance with all related
9 regulations of the State Department of Mental Health.

10 (3) The facility meets the definitions and
11 requirements contained in subdivisions (e) and (f) of
12 Sections 1861 of the federal Social Security Act (42 U.S.C.
13 Sec. 1395x (e) and (f)).

14 (4) The facility meets the conditions of participation
15 for hospitals pursuant to Part 482 of Title 42 of the Code
16 of Federal Regulations.

17 SEC. 2. Section 4080 of the Welfare and Institutions
18 Code is amended to read:

19 4080. (a) Psychiatric health facilities, as defined in
20 Section 1250.2 of the Health and Safety Code, shall only
21 be licensed by the State Department of Mental Health
22 subsequent to application by counties, county contract
23 providers, or other organizations pursuant to this part.

24 (b) (1) For counties or county contract providers that
25 choose to apply, the local mental health director shall first
26 present to the local mental health advisory board, for its
27 review an explanation, of the need for the facility and a
28 description of the services to be provided. The local
29 mental health director shall then submit to the governing
30 body the explanation and description. The governing
31 body may submit the application to the State Department
32 of Mental Health.

33 (2) Other organizations that will be applying for
34 licensure and do not intend to use any
35 Bronzan-McCorquodale funds pursuant to Section 5707
36 shall submit to the local mental health director and the
37 governing body in the county in which the facility is to be
38 located a written and dated proposal of the services to be
39 provided. The local mental health director and the
40 governing body shall have 30 days during which to



1 provide any advice and recommendations regarding
2 licensure, as they deem appropriate. At any time after the
3 30-day period, the organizations may then submit their
4 applications, along with the mental health director's and
5 governing body's advice and recommendations, if any, to
6 the State Department of Mental Health.

7 (c) The State Fire Marshal and other appropriate state
8 agencies, to the extent required by law, shall cooperate
9 fully with the State Department of Mental Health to
10 ensure that the State Department of Mental Health
11 approves or disapproves the licensure applications not
12 later than 90 days after the application submission by a
13 county, county contract provider, or other organization.

14 (d) Every psychiatric health facility and program for
15 which a license has been issued shall be periodically
16 inspected by a multidisciplinary team appointed or
17 designated by the State Department of Mental Health.
18 The inspection shall be conducted no less than once every
19 two years and as often as necessary to ensure the quality
20 of care provided. During the inspections the review team
21 shall offer such advice and assistance to the psychiatric
22 health facility as it deems appropriate.

23 (e) (1) The program aspects of a psychiatric health
24 facility that shall be reviewed and may be approved by
25 the State Department of Mental Health shall include, but
26 not be limited to:

27 (A) Activities programs.

28 (B) Administrative policies and procedures.

29 (C) Admissions, including provisions for a mental
30 evaluation.

31 (D) Discharge planning.

32 (E) Health records content.

33 (F) Health records services.

34 (G) Interdisciplinary treatment teams.

35 (H) Nursing services.

36 (I) Patient rights.

37 (J) Pharmaceutical services.

38 (K) Program space requirements.

39 (L) Psychiatrist and clinical psychological services.

40 (M) Rehabilitation services.



- 1 (N) Restraint and seclusion.
- 2 (O) Social work services.
- 3 (P) Space, supplies, and equipment.
- 4 (Q) Staffing standards.
- 5 (R) Unusual occurrences.
- 6 (S) Use of outside resources, including agreements
- 7 with general acute care hospitals.
- 8 (T) Linguistic access and cultural competence.
- 9 (U) Structured outpatient services to be provided
- 10 under special permit.
- 11 (2) The State Department of Mental Health has the
- 12 sole authority to grant program flexibility.
- 13 (f) The State Department of Mental Health shall
- 14 adopt regulations that shall include, but not be limited to,
- 15 all of the following:
- 16 (1) Procedures by which the State Department of
- 17 Mental Health shall review and may approve the
- 18 program and facility requesting licensure as a psychiatric
- 19 health facility as being in compliance with program
- 20 standards established by the department.
- 21 (2) Procedures by which the Director of Mental
- 22 Health shall approve, or deny approval of, the program
- 23 and facility licensed as a psychiatric health facility
- 24 pursuant to this section.
- 25 (3) Provisions for site visits by the State Department
- 26 of Mental Health for the purpose of reviewing a facility's
- 27 compliance with program and facility standards.
- 28 (4) Provisions for the State Department of Mental
- 29 Health for any administrative proceeding regarding
- 30 denial, suspension, or revocation of a psychiatric health
- 31 facility license.
- 32 (g) Regulations shall be adopted by the State
- 33 Department of Mental Health, which shall establish
- 34 standards for pharmaceutical services in psychiatric
- 35 health facilities. Licensed psychiatric health facilities
- 36 shall be exempt from requirements to obtain a separate
- 37 pharmacy license or permit.
- 38 (h) (1) It is the intent of the Legislature that the State
- 39 Department of Mental Health shall license the facility in



1 order to establish innovative and more competitive and
2 specialized acute care services.

3 (2) The State Department of Mental Health shall
4 review and may approve the program aspects of public
5 or private facilities, with the exception of those facilities
6 that are federally certified or accredited by a nationally
7 recognized commission that accredits health care
8 facilities, only if the average per diem charges or costs of
9 service provided in the facility is approximately 60
10 percent of the average per diem charges or costs of
11 similar psychiatric services provided in a general hospital.

12 (3) (A) When a private facility is accredited by a
13 nationally recognized commission that accredits health
14 care facilities, the department shall review and may
15 approve the program aspects only if the average per diem
16 charges or costs of service provided in the facility do not
17 exceed approximately 75 percent of the average per diem
18 charges or costs of similar psychiatric service provided in
19 a psychiatric or general hospital.

20 (B) When a private facility serves county patients, the
21 department shall review and may approve the program
22 aspects only if the facility is federally certified by the
23 Health Care Financing Administration and serves a
24 population mix that includes a proportion of Medi-Cal
25 patients sufficient to project an overall cost savings to the
26 county, and the average per diem charges or costs of
27 service provided in the facility do not exceed
28 approximately 75 percent of the average per diem
29 charges or costs of similar psychiatric service provided in
30 a psychiatric or general hospital.

31 (4) When a public facility is federally certified by the
32 Health Care Financing Administration and serves a
33 population mix that includes a proportion of Medi-Cal
34 patients sufficient to project an overall program cost
35 savings with certification, the department shall approve
36 the program aspects only if the average per diem charges
37 or costs of service provided in the facility do not exceed
38 approximately 75 percent of the average per diem
39 charges or costs of similar psychiatric service provided in
40 a psychiatric or general hospital.

1 (5) (A) The State Department of Mental Health may
2 set a lower rate for private or public facilities than that
3 required by paragraph (3) or paragraph (4),
4 respectively, if so required by the federal Health Care
5 Financing Administration as a condition for the receipt of
6 federal matching funds.

7 (B) This section shall not impose any obligation on any
8 private facility to contract with a county for the provision
9 of services to Medi-Cal beneficiaries, and any contract for
10 that purpose shall be subject to the agreement of the
11 participating facility.

12 (6) (A) In using the guidelines specified in this
13 subdivision, the department shall take into account local
14 conditions affecting the costs or charges.

15 (B) In those psychiatric health facilities authorized by
16 special permit to offer structured outpatient services not
17 exceeding 10 daytime hours, the following limits on per
18 diem rates shall apply:

19 (i) The per diem charge for patients in both a morning
20 and an afternoon program on the same day shall not
21 exceed 60 percent of the facility’s authorized per diem
22 charge for inpatient services.

23 (ii) The per diem charge for patients in either a
24 morning or afternoon program shall not exceed 30
25 percent of the facility’s authorized per diem charge for
26 inpatient services.

27 (i) The licensing fees charged for these facilities shall
28 be credited to the State Department of Mental Health for
29 its costs incurred in the review of psychiatric health
30 facility programs, in connection with the licensing of
31 these facilities.

32 (j) Proposed changes in the standards or regulations
33 affecting health facilities that serve the mentally
34 disordered shall be effected only with the review and
35 coordination of the Health and Welfare Agency.

36 (k) In psychiatric health facilities where the clinical
37 director is not a physician or a psychiatrist, or if one is
38 temporarily not available, a physician shall be designated
39 who shall direct those medical treatments and services



1 that can only be provided by, or under the direction of,
2 a physician.

3 SEC. 3. *Section 6003.1 of the Welfare and Institutions*
4 *Code is amended to read:*

5 6003.1. As used in this article, county psychiatric
6 health facility means ~~the nonhospital~~ a 24-hour acute care
7 facility provided by the county pursuant to the provisions
8 in Sections 5404 and 7100.

9 SEC. 4. This act is an urgency statute necessary for the
10 immediate preservation of the public peace, health, or
11 safety within the meaning of Article IV of the
12 Constitution and shall go into immediate effect. The facts
13 constituting the necessity are:

14 In order to preserve the federal financial participation
15 in the Medi-Cal and medicare services provided by
16 federally certified psychiatric health facilities in
17 Humboldt, Shasta, and Santa Barbara Counties and to
18 enable federal certification and financial participation in
19 Medi-Cal and medicare services at psychiatric health
20 facilities in Los Angeles, Solano, and Riverside Counties,
21 as well as other counties, it is necessary that this act take
22 effect immediately.

