

Introduced by Senator AlquistFebruary 23, 2012

An act to amend Section 1250 of, and to add Article 7.2 (commencing with Section 1323.5) to Chapter 2 of Division 2 of, the Health and Safety Code, relating to small house skilled nursing facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, as introduced, Alquist. Small house skilled nursing facilities.

Existing law provides for the licensure and regulation of health facilities, including skilled nursing facilities, as defined, by the State Department of Public Health. Violation of these provisions is a crime.

This bill, commencing January 1, 2014, would create a new health facility licensing category for a small house skilled nursing facility, defined by the bill as a skilled nursing facility that is either a standalone home or that consists of more than one home for the purposes of providing skilled nursing care in a homelike, noninstitutional setting. The bill would require that these facilities comply with applicable state law governing skilled nursing facilities, except as specified. The bill would require the department to review license applications and render a decision within 6 months of receipt. The bill would require the department and the Office of Statewide Health Planning and Development to consult with a specified entity on various aspects of small house skilled nursing facilities. The bill would require the department to adopt regulations implementing these provisions.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

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 1250 of the Health and Safety Code is
2 amended to read:

3 1250. As used in this chapter, “health facility” means any
4 facility, place, or building that is organized, maintained, and
5 operated for the diagnosis, care, prevention, and treatment of
6 human illness, physical or mental, including convalescence and
7 rehabilitation and including care during and after pregnancy, or
8 for any one or more of these purposes, for one or more persons,
9 to which the persons are admitted for a 24-hour stay or longer, and
10 includes the following types:

11 (a) “General acute care hospital” means a health facility having
12 a duly constituted governing body with overall administrative and
13 professional responsibility and an organized medical staff that
14 provides 24-hour inpatient care, including the following basic
15 services: medical, nursing, surgical, anesthesia, laboratory,
16 radiology, pharmacy, and dietary services. A general acute care
17 hospital may include more than one physical plant maintained and
18 operated on separate premises as provided in Section 1250.8. A
19 general acute care hospital that exclusively provides acute medical
20 rehabilitation center services, including at least physical therapy,
21 occupational therapy, and speech therapy, may provide for the
22 required surgical and anesthesia services through a contract with
23 another acute care hospital. In addition, a general acute care
24 hospital that, on July 1, 1983, provided required surgical and
25 anesthesia services through a contract or agreement with another
26 acute care hospital may continue to provide these surgical and
27 anesthesia services through a contract or agreement with an acute
28 care hospital. The general acute care hospital operated by the State
29 Department of Developmental Services at Agnews Developmental
30 Center may, until June 30, 2007, provide surgery and anesthesia
31 services through a contract or agreement with another acute care
32 hospital. Notwithstanding the requirements of this subdivision, a
33 general acute care hospital operated by the Department of

1 Corrections and Rehabilitation or the Department of Veterans
2 Affairs may provide surgery and anesthesia services during normal
3 weekday working hours, and not provide these services during
4 other hours of the weekday or on weekends or holidays, if the
5 general acute care hospital otherwise meets the requirements of
6 this section.

7 A “general acute care hospital” includes a “rural general acute
8 care hospital.” However, a “rural general acute care hospital” shall
9 not be required by the department to provide surgery and anesthesia
10 services. A “rural general acute care hospital” shall meet either of
11 the following conditions:

12 (1) The hospital meets criteria for designation within peer group
13 six or eight, as defined in the report entitled Hospital Peer Grouping
14 for Efficiency Comparison, dated December 20, 1982.

15 (2) The hospital meets the criteria for designation within peer
16 group five or seven, as defined in the report entitled Hospital Peer
17 Grouping for Efficiency Comparison, dated December 20, 1982,
18 and has no more than 76 acute care beds and is located in a census
19 dwelling place of 15,000 or less population according to the 1980
20 federal census.

21 (b) “Acute psychiatric hospital” means a health facility having
22 a duly constituted governing body with overall administrative and
23 professional responsibility and an organized medical staff that
24 provides 24-hour inpatient care for mentally disordered,
25 incompetent, or other patients referred to in Division 5
26 (commencing with Section 5000) or Division 6 (commencing with
27 Section 6000) of the Welfare and Institutions Code, including the
28 following basic services: medical, nursing, rehabilitative,
29 pharmacy, and dietary services.

30 (c) (1) “Skilled nursing facility” means a health facility that
31 provides skilled nursing care and supportive care to patients whose
32 primary need is for availability of skilled nursing care on an
33 extended basis.

34 (2) “Skilled nursing facility” includes a “small house skilled
35 nursing facility (SHSNF),” as defined in Section 1323.5.

36 (d) “Intermediate care facility” means a health facility that
37 provides inpatient care to ambulatory or nonambulatory patients
38 who have recurring need for skilled nursing supervision and need
39 supportive care, but who do not require availability of continuous
40 skilled nursing care.

1 (e) “Intermediate care facility/developmentally disabled
2 habilitative” means a facility with a capacity of 4 to 15 beds that
3 provides 24-hour personal care, habilitation, developmental, and
4 supportive health services to 15 or fewer persons with
5 developmental disabilities who have intermittent recurring needs
6 for nursing services, but have been certified by a physician and
7 surgeon as not requiring availability of continuous skilled nursing
8 care.

9 (f) “Special hospital” means a health facility having a duly
10 constituted governing body with overall administrative and
11 professional responsibility and an organized medical or dental staff
12 that provides inpatient or outpatient care in dentistry or maternity.

13 (g) “Intermediate care facility/developmentally disabled” means
14 a facility that provides 24-hour personal care, habilitation,
15 developmental, and supportive health services to persons with
16 developmental disabilities whose primary need is for
17 developmental services and who have a recurring but intermittent
18 need for skilled nursing services.

19 (h) “Intermediate care facility/developmentally
20 disabled-nursing” means a facility with a capacity of 4 to 15 beds
21 that provides 24-hour personal care, developmental services, and
22 nursing supervision for persons with developmental disabilities
23 who have intermittent recurring needs for skilled nursing care but
24 have been certified by a physician and surgeon as not requiring
25 continuous skilled nursing care. The facility shall serve medically
26 fragile persons with developmental disabilities or who demonstrate
27 significant developmental delay that may lead to a developmental
28 disability if not treated.

29 (i) (1) “Congregate living health facility” means a residential
30 home with a capacity, except as provided in paragraph (4), of no
31 more than 12 beds, that provides inpatient care, including the
32 following basic services: medical supervision, 24-hour skilled
33 nursing and supportive care, pharmacy, dietary, social, recreational,
34 and at least one type of service specified in paragraph (2). The
35 primary need of congregate living health facility residents shall
36 be for availability of skilled nursing care on a recurring,
37 intermittent, extended, or continuous basis. This care is generally
38 less intense than that provided in general acute care hospitals but
39 more intense than that provided in skilled nursing facilities.

1 (2) Congregate living health facilities shall provide one of the
2 following services:

3 (A) Services for persons who are mentally alert, persons with
4 physical disabilities, who may be ventilator dependent.

5 (B) Services for persons who have a diagnosis of terminal
6 illness, a diagnosis of a life-threatening illness, or both. Terminal
7 illness means the individual has a life expectancy of six months
8 or less as stated in writing by his or her attending physician and
9 surgeon. A “life-threatening illness” means the individual has an
10 illness that can lead to a possibility of a termination of life within
11 five years or less as stated in writing by his or her attending
12 physician and surgeon.

13 (C) Services for persons who are catastrophically and severely
14 disabled. A person who is catastrophically and severely disabled
15 means a person whose origin of disability was acquired through
16 trauma or nondegenerative neurologic illness, for whom it has
17 been determined that active rehabilitation would be beneficial and
18 to whom these services are being provided. Services offered by a
19 congregate living health facility to a person who is catastrophically
20 disabled shall include, but not be limited to, speech, physical, and
21 occupational therapy.

22 (3) A congregate living health facility license shall specify which
23 of the types of persons described in paragraph (2) to whom a
24 facility is licensed to provide services.

25 (4) (A) A facility operated by a city and county for the purposes
26 of delivering services under this section may have a capacity of
27 59 beds.

28 (B) A congregate living health facility not operated by a city
29 and county servicing persons who are terminally ill, persons who
30 have been diagnosed with a life-threatening illness, or both, that
31 is located in a county with a population of 500,000 or more persons,
32 or located in a county of the 16th class pursuant to Section 28020
33 of the Government Code, may have not more than 25 beds for the
34 purpose of serving persons who are terminally ill.

35 (C) A congregate living health facility not operated by a city
36 and county serving persons who are catastrophically and severely
37 disabled, as defined in subparagraph (C) of paragraph (2) that is
38 located in a county of 500,000 or more persons may have not more
39 than 12 beds for the purpose of serving persons who are
40 catastrophically and severely disabled.

1 (5) A congregate living health facility shall have a
2 noninstitutional, homelike environment.

3 (j) (1) “Correctional treatment center” means a health facility
4 operated by the Department of Corrections and Rehabilitation, the
5 Department of Corrections and Rehabilitation, Division of Juvenile
6 Facilities, or a county, city, or city and county law enforcement
7 agency that, as determined by the state department, provides
8 inpatient health services to that portion of the inmate population
9 who do not require a general acute care level of basic services.
10 This definition shall not apply to those areas of a law enforcement
11 facility that houses inmates or wards that may be receiving
12 outpatient services and are housed separately for reasons of
13 improved access to health care, security, and protection. The health
14 services provided by a correctional treatment center shall include,
15 but are not limited to, all of the following basic services: physician
16 and surgeon, psychiatrist, psychologist, nursing, pharmacy, and
17 dietary. A correctional treatment center may provide the following
18 services: laboratory, radiology, perinatal, and any other services
19 approved by the state department.

20 (2) Outpatient surgical care with anesthesia may be provided,
21 if the correctional treatment center meets the same requirements
22 as a surgical clinic licensed pursuant to Section 1204, with the
23 exception of the requirement that patients remain less than 24
24 hours.

25 (3) Correctional treatment centers shall maintain written service
26 agreements with general acute care hospitals to provide for those
27 inmate physical health needs that cannot be met by the correctional
28 treatment center.

29 (4) Physician and surgeon services shall be readily available in
30 a correctional treatment center on a 24-hour basis.

31 (5) It is not the intent of the Legislature to have a correctional
32 treatment center supplant the general acute care hospitals at the
33 California Medical Facility, the California Men’s Colony, and the
34 California Institution for Men. This subdivision shall not be
35 construed to prohibit the Department of Corrections and
36 Rehabilitation from obtaining a correctional treatment center
37 license at these sites.

38 (k) “Nursing facility” means a health facility licensed pursuant
39 to this chapter that is certified to participate as a provider of care
40 either as a skilled nursing facility in the federal Medicare Program

1 under Title XVIII of the federal Social Security Act or as a nursing
2 facility in the federal Medicaid Program under Title XIX of the
3 federal Social Security Act, or as both.

4 (l) Regulations defining a correctional treatment center described
5 in subdivision (j) that is operated by a county, city, or city and
6 county, the Department of Corrections and Rehabilitation, or the
7 Department of Corrections and Rehabilitation, Division of Juvenile
8 Facilities, shall not become effective prior to, or if effective, shall
9 be inoperative until January 1, 1996, and until that time these
10 correctional facilities are exempt from any licensing requirements.

11 (m) “Intermediate care facility/developmentally
12 disabled-continuous nursing (ICF/DD-CN)” means a homelike
13 facility with a capacity of four to eight, inclusive, beds that
14 provides 24-hour personal care, developmental services, and
15 nursing supervision for persons with developmental disabilities
16 who have continuous needs for skilled nursing care and have been
17 certified by a physician and surgeon as warranting continuous
18 skilled nursing care. The facility shall serve medically fragile
19 persons who have developmental disabilities or demonstrate
20 significant developmental delay that may lead to a developmental
21 disability if not treated. ICF/DD-CN facilities shall be subject to
22 licensure under this chapter upon adoption of licensing regulations
23 in accordance with Section 1275.3. A facility providing continuous
24 skilled nursing services to persons with developmental disabilities
25 pursuant to Section 14132.20 or 14495.10 of the Welfare and
26 Institutions Code shall apply for licensure under this subdivision
27 within 90 days after the regulations become effective, and may
28 continue to operate pursuant to those sections until its licensure
29 application is either approved or denied.

30 SEC. 2. Article 7.2 (commencing with Section 1323.5) is added
31 to Chapter 2 of Division 2 of the Health and Safety Code, to read:

32
33 Article 7.2. Small House Skilled Nursing Facilities

34
35 1323.5. (a) For purposes of this article, the following
36 definitions apply:

37 (1) “Home” means an apartment, home, or other similar unit
38 that serves 10 or fewer residents.

39 (2) “Small house skilled nursing facility (SHSNF)” or “facility”
40 means a skilled nursing facility that is either a standalone home

1 or that consists of more than one home, licensed pursuant to this
2 article, for the purposes of providing skilled nursing care in a
3 homelike, noninstitutional setting.

4 (3) “Versatile worker” means a certified nursing assistant who
5 provides personal care, socialization, meal preparation services,
6 and housekeeping services.

7 (b) Commencing January 1, 2014, a facility may be licensed by
8 the department pursuant to this article if the facility meets all of
9 the following requirements:

10 (1) The facility shall be certified to participate as a provider of
11 care either as a skilled nursing facility in the federal Medicare
12 Program under Title XVIII of the federal Social Security Act (42
13 U.S.C. Sec. 1395 et seq.) or as a nursing facility in the federal
14 Medicaid Program under Title XIX of the federal Social Security
15 Act (42 U.S.C. Sec. 1396 et seq.), or as both.

16 (2) The facility shall comply with all state laws and regulations
17 that govern skilled nursing facilities, except to the extent that those
18 laws and regulations are inconsistent with the provisions of this
19 article. The provisions of this article shall supersede any conflicting
20 state law or regulation.

21 (3) To the extent permitted under federal law, the facility shall
22 provide meals cooked on the premises of each home, and not
23 prepared in a central kitchen and transported to the home.

24 (4) To the extent permitted under federal law, the facility shall
25 utilize versatile workers for purposes of resident care.

26 (5) The facility shall meet all federal and state direct care
27 staffing requirements for skilled nursing facilities, or no less than
28 four hours per resident per day, whichever is greater. All direct
29 care staff shall be onsite, awake, and available within each home
30 at all times.

31 (6) The facility shall provide for consistent staff assignments
32 and self-directed work teams of direct care staff supervised by a
33 leadership team member who is not acting as a nurse or nursing
34 supervisor in the home.

35 (7) (A) The facility shall provide training for all staff involved
36 in the operation of the home for not less than 120 hours for each
37 versatile worker and not less than 60 hours for each leadership and
38 clinical team member, to be completed prior to initial operation
39 of the home, concerning the philosophy, operations, and skills
40 required to implement and maintain self-directed care,

1 self-managed work teams, a noninstitutional approach to long-term
2 care, safety and emergency skills, food handling and safety, and
3 other elements necessary for the successful operation of the home.

4 (B) Replacement staff shall undergo the training described in
5 subparagraph (A) within six weeks of commencing employment
6 with the facility.

7 (C) Any staff members who are employed on a short-term,
8 temporary basis due to permanent staff illness or unexpected
9 absence are exempt from the training requirements specified in
10 subparagraph (A).

11 (8) (A) To the extent permitted under federal law, the facility
12 shall ensure that the percentage of residents in each facility who
13 are short-stay rehabilitation residents does not exceed 20 percent
14 at any time, except that a long-term resident returning to a facility
15 after a hospital stay who is receiving rehabilitation services for
16 which payment is made under the Medicare Program under Title
17 XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et
18 seq.), shall not be counted toward this limitation.

19 (B) Subparagraph (A) does not apply to a facility that is licensed
20 pursuant to this article as a facility that solely provides
21 rehabilitation services.

22 (9) To the extent permitted under federal law, each home shall
23 consist of a homelike, rather than institutional, environment,
24 including the following characteristics:

25 (A) The home shall be accessible to disabled persons, and shall
26 be designed as a house or apartment that is similar to housing
27 available within the surrounding community, that includes shared
28 areas that would only be commonly shared in a private home or
29 apartment.

30 (B) The home shall not, to the extent practicable, contain
31 institutional features. These include, but are not limited to, nursing
32 stations, medication carts, room numbers, and wall-mounted
33 licenses or certificates that could appropriately be accessed through
34 other means.

35 (C) The home shall include private, single-occupancy bedrooms
36 that are shared only at the request of a resident to accommodate a
37 spouse, partner, family member, or friend, and that contain a full
38 private and accessible bathroom.

39 (D) The home shall contain a living area where residents and
40 staff may socialize, dine, and prepare food together that provides,

1 at a minimum, a living room seating area, a dining area large
2 enough to accommodate all residents and at least two staff
3 members, and a full kitchen that may be utilized by residents.

4 (E) The home shall contain ample natural light with window
5 areas, not including skylights, being a minimum of 10 percent of
6 the area of each room.

7 (F) The home shall have built-in safety features to allow all
8 areas of the facility to be accessible to residents during the majority
9 of the day and night.

10 (G) The home shall provide access to secured outdoor space.

11 (c) Within two months of receipt of a license application, the
12 department shall notify the applicant of any information necessary
13 to process the application. The department shall review each
14 application and render a decision within six months of receipt of
15 the application.

16 (d) Using resources available as of January 1, 2013, the
17 department and the Office of Statewide Health Planning and
18 Development shall consult with NCB Capital Impact on the
19 physical, operational, and other aspects of small house skilled
20 nursing facilities.

21 (e) The department shall adopt regulations to implement this
22 section.

23 SEC. 3. 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.