

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 973

Introduced by Assembly Member Quirk-Silva

February 22, 2013

An act to amend Section 1417.2 of, and to add *and repeal* Section 1417.5 ~~to~~ *of*, the Health and Safety Code, relating to long-term health care facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 973, as amended, Quirk-Silva. Long-term health facilities: culture change.

Existing law provides for the licensure of long-term health care facilities by the State Department of Public Health. Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, authorizes the department to assess penalties for violation of prescribed requirements and requires the moneys collected as a result of the imposed penalties to be deposited into the State Health Facilities Citation Penalties Account. Existing law provides that moneys derived from civil penalties for violations of federal law shall be deposited into the Federal Health Facilities Citation Penalties Account. Moneys in both accounts are to be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, as specified. Existing law also authorizes the department to use up to \$150,000 of moneys from the Federal Health Facilities Citation Penalties Account for the improvement of quality of care and quality of life for facility residents.

This bill would require moneys from ~~both accounts~~ *the State Health Facilities Citation Penalties Account* to be continuously appropriated

and used, as specified. By creating a continuously appropriated fund, the bill would make an appropriation. The bill would authorize the department to use up to \$150,000 of moneys each fiscal year from the State Health Facilities Citation Penalties Account for the ~~improvement of quality of care and quality of life for facility residents~~ *general promotion of culture change and person-centered care in the state's long-term care facilities*, as specified. The bill would require the department to use up to \$250,000 each fiscal year from the Federal Health Facilities Citation Penalties Account for the ~~promotion of culture change and person-centered care~~ *specific projects as directed by the federal government for improvement of quality of life for long-term care residents*, as specified.

This bill would also require, *for 4 years after the receipt of funds from the State Health Facilities Citation Penalties Account*, the director of the department to contract with a ~~nonprofit community agency organization~~, as specified, to ~~act as the Statewide Culture Change Consultant~~ *promote culture change*. The bill would require the ~~Statewide Culture Change Consultant~~ *nonprofit organization* to serve long-term health care facilities stakeholders, including, among others, residents and long-term health care facility personnel, to perform a variety of tasks, including serving as the centralized information and technical assistance clearinghouse for best practices in long-term health care facilities for implementing person-centered care and culture change, as defined, and to submit annual reports.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The federal Nursing Home Reform Act allows the federal
- 4 government to issue sanctions against nursing homes that fail to
- 5 comply with federal Medicare and Medicaid quality of care
- 6 requirements.
- 7 (b) Civil money penalties are one of the sanctions established
- 8 by the federal government to encourage nursing homes to comply
- 9 with federal requirements and to prevent poor quality of care.
- 10 (c) The federal government contracts with state licensing and
- 11 certification agencies to inspect nursing homes and to issue civil

1 money penalties for violations of federal conditions of
2 participation.

3 (d) Moneys collected as a result of civil penalties imposed due
4 to violations of federal and state statutes are deposited into two
5 separate accounts that are established in the Special Deposit Fund
6 pursuant to Section 16370 of the Government Code.

7 (e) These civil money penalties offer an opportunity to better
8 the lives of nursing home residents by providing additional
9 resources to the state to improve the quality of care and quality of
10 life for residents.

11 (f) The federal Patient Protection and Affordable Care Act
12 allows a portion of the federal civil money penalty funds to be
13 used to support activities that promote quality of care and the
14 well-being of nursing home residents in certified nursing homes.
15 Specifically, federal regulations allow these funds to be used for
16 the promotion of culture change.

17 SEC. 2. Section 1417.2 of the Health and Safety Code is
18 amended to read:

19 1417.2. (a) Notwithstanding Section 1428, moneys collected
20 as a result of state and federal civil penalties imposed under this
21 chapter or federal law shall be deposited into accounts that are
22 hereby established in the Special Deposit Fund created pursuant
23 to Section 16370 of the Government Code. These accounts are
24 titled the State Health Facilities Citation Penalties Account, into
25 which moneys derived from civil penalties for violations of state
26 law shall be deposited, and the Federal Health Facilities Citation
27 Penalties Account, into which moneys derived from civil penalties
28 for violations of federal law shall be deposited. ~~Moneys Except as~~
29 ~~provided in paragraph (5), moneys from these accounts the State~~
30 *Health Facilities Penalties Account* shall be continuously
31 appropriated and used, notwithstanding Section 16370 of the
32 Government Code, in accordance with state and federal law for
33 the protection of health or property of residents of long-term health
34 care facilities, including, but not limited to, the following:

35 (1) Relocation expenses incurred by the department, in the event
36 of a facility closure.

37 (2) Maintenance of facility operation pending correction of
38 deficiencies or closure, such as temporary management or
39 receivership, in the event that the revenues of the facility are
40 insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(5) Support for the Long-Term Care Ombudsman Program established pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code in an amount appropriated from the State Health Facilities Citation Penalties Account for this purpose in the annual Budget Act. *If the amount of moneys in the account falls below eight million dollars (\$8,000,000), funding for the Long-Term Care Ombudsman Program shall receive priority over funding for the purposes described in paragraph (6).*

~~(b) (1) Notwithstanding subdivision (a), the balance in the State Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars (\$10,000,000).~~

~~(2)~~

~~(6) Moneys from the State Health Facilities Citation Penalties Account, in the amount not to exceed one hundred fifty thousand dollars (\$150,000) each fiscal year, may be used for specific projects for the improvement of quality of care and quality of life for long-term health care facility residents pursuant to Section 1417.3 shall be used for the general promotion of culture change and person-centered care in the state's long-term care facilities.~~

~~(e)~~

~~(b) (1) Moneys from the Federal Health Facilities Citation Penalties Account, in the amount not to exceed two hundred fifty thousand dollars (\$250,000) each fiscal year, shall be used for the promotion of culture change and person-centered care in the state's long-term health care facilities pursuant to Section 1417.5 specific projects as directed by the federal government for the improvement of quality of care and quality of life for long-term care residents, including the promotion of person-centered care and culture change.~~

~~(2) In order to promote culture change as specified in paragraph (1), projects undertaken by the nonprofit organization under the direction of the state and federal government shall specify the desired outcomes, deliverables, and how the project is to be~~

1 *evaluated. At the commencement of the projects, the state shall*
2 *post on its Internet Web site a description of the project to be*
3 *undertaken, including a timeline for activities and evaluation.*
4 *Within six months of the completion of the project, the state shall*
5 *post on its Internet Web site the outcomes of the projects.*

6 ~~(d)~~

7 (c) The department shall post on its Internet Web site, and shall
8 update on a quarterly basis, all of the following regarding the funds
9 in the State Health Facilities Citation Penalties Account and the
10 Federal Health Facilities Citation Penalties Account:

11 (1) The specific sources of funds deposited into the account.

12 (2) The amount of funds in the account that have not been
13 allocated.

14 (3) A detailed description of how funds in the account have
15 been allocated and expended, including, but not limited to, the
16 names of persons or entities that received the funds, the amount
17 of salaries paid to temporary managers, and a description of
18 equipment purchased with the funds. However, the description
19 shall not include the names of residents.

20 SEC. 3. Section 1417.5 is added to the Health and Safety Code,
21 to read:

22 1417.5. (a) ~~The~~ *In order to promote culture change, as*
23 *specified in paragraph (6) of subdivision (a) of Section 1417.2,*
24 *the director shall contract with a nonprofit-community agency*
25 *meeting the requirements of this section to act as the Statewide*
26 *Culture Change Consultant, to be selected through a bid procedure.*
27 *organization that meets both of the following requirements:*

28 (1) *The organization has a proven record of experience in*
29 *providing information, technical assistance, and direct services*
30 *to long-term health care facilities and other stakeholders.*

31 (2) *The organization includes on its board of directors, advisory*
32 *council, or both, the following persons:*

33 (A) *Residents or family members of residents.*

34 (B) *Personnel and representatives of long-term health care*
35 *facilities and facility personnel.*

36 (C) *Long-term health care facility resident advisory*
37 *organizations.*

38 (D) *Representatives of state licensing agency personnel.*

39 (E) *The state ombudsman and a representative from the*
40 *California Long-Term Care Ombudsman Association.*

~~(b) (1) The Statewide Culture Change Consultant, in consultation with the director, shall serve long-term health care facility stakeholders, including, but not limited to, residents, family members of residents, facility personnel, representatives of long-term health care facilities and facility personnel, long-term health care facility resident advocacy organizations, educational institutions, representatives of state licensing agency personnel, and state ombudsmen.~~

~~(2)~~

~~(b) The Statewide Culture Change Consultant nonprofit organization shall do all of the following:~~

~~(A)~~

~~(1) Serve as the centralized information and technical assistance clearinghouse for the best practices for implementing person-centered care and culture change in long-term health care facilities.~~

~~(B)~~

~~(2) Develop and conduct training that is appropriate for a variety of long-term health care facility stakeholders.~~

~~(C)~~

~~(3) Assist the director in conducting data collection regarding the impact of culture change best practices on long-term health care facilities and its residents and personnel upon request.~~

~~(D)~~

~~(4) Determine the need for, and conduct, conferences for long-term health care facility personnel, residents, families, advocacy organizations, educational institutions, community groups, and the general public, in order to improve the quality of life and resident satisfaction in facilities.~~

~~(E)~~

~~(5) Develop training materials, and under the direction of the director, distribute the training materials to appropriate stakeholders and report to the director on their distribution, and when possible, the results of the distribution.~~

~~(e) In choosing an appropriate nonprofit community agency to act as the Statewide Culture Change Consultant, the director shall give priority to an agency that meets both of the following requirements:~~

1 ~~(1) The agency that has a proven record of experience in~~
2 ~~providing information, technical assistance, and direct services to~~
3 ~~long-term health care facilities and other stakeholders.~~

4 ~~(2) The agency includes on its board of directors, or advisory~~
5 ~~council, or both, any of the following persons:~~

6 ~~(A) Residents or family members of residents.~~

7 ~~(B) Personnel and representatives of long-term health care~~
8 ~~facilities and facility personnel.~~

9 ~~(C) Long-term health care facility resident advocacy~~
10 ~~organizations.~~

11 ~~(D) Representatives of state licensing agency personnel.~~

12 ~~(E) State ombudsmen.~~

13 ~~(d)~~

14 ~~(c) (1) The Statewide Culture Change Consultant nonprofit~~
15 ~~organization shall submit annual progress reports on its activities,~~
16 ~~as required by the director. These reports shall provide a summary~~
17 ~~and evaluation of the activities of the organization. The report shall~~
18 ~~also include all of the following:~~

19 ~~(A) An annual budget that includes the costs of specific~~
20 ~~programs, services, and materials provided and the overhead costs~~
21 ~~for providing specific programs, services, and materials and~~
22 ~~summary of expenditures.~~

23 ~~(B) Recommendations for improving the effectiveness of the~~
24 ~~efforts to disseminate the principles of culture change to long-term~~
25 ~~health care facilities.~~

26 ~~(C) Recommendations for the continued efforts in the subsequent~~
27 ~~year.~~

28 ~~(2)~~

29 ~~(d) It is recognized that in order for the Statewide Culture~~
30 ~~Change Consultant nonprofit organization to conduct the duties~~
31 ~~specified in this section some portion of the these funds will~~
32 ~~support core operations of the organization, such as staffing salaries~~
33 ~~and operational expenses.~~

34 ~~(e) Nothing in this chapter shall prohibit the Statewide Culture~~
35 ~~Change Consultant nonprofit organization from raising seeking~~
36 ~~additional funding through charitable contributions, fees for~~
37 ~~conferences and training, and grants made from foundations or~~
38 ~~other organizations, including other governmental agencies, for~~
39 ~~the purpose of disseminating the principles of culture change.~~

1 (f) As used in this section, the following terms have the
2 following meanings:

3 (1) “Culture change” means the national movement for the
4 transformation of older adult services, based on person-centered
5 values and practices where the voices of elders and those working
6 with them are considered and respected. Core person-centered
7 values are choice, dignity, respect, self-determination, and
8 purposeful living, and include all of the following:

9 (A) Resident care and activities that are directed by the resident.

10 (B) A living environment that is designed to be a home rather
11 than an institution.

12 (C) Close relationships between residents, family members,
13 staff, and community.

14 (D) Work that is organized to support and empower all staff to
15 respond to residents’ needs and desires.

16 (E) Management that enables collaborative and decentralized
17 decisionmaking.

18 (F) Systematic processes that are comprehensive,
19 measurement-based, and utilized for continuous quality
20 improvement.

21 (2) “Person-centered care” means treatment and care that places
22 a person at the center of his or her own care and considers the
23 needs of the older person. Principles of person-centered care
24 include all of the following:

25 (A) Sharing power and responsibility with a person in
26 decisionmaking about all matters of care and treatment.

27 (B) Ensuring that care is delivered in a manner that honors a
28 person’s customary preferences and routines.

29 (C) Ensuring that a person’s quality of life is taken into account
30 along with quality of care.

31 (g) *This section shall remain in effect only until the January 1*
32 *of the year that is four years after the date funds are received by*
33 *the nonprofit organization for expenditure from the state fund, and*
34 *as of that date is repealed, unless a later enacted statute, that is*
35 *enacted before that date, deletes or extends that date.*