

AMENDED IN ASSEMBLY JULY 3, 2013

AMENDED IN SENATE APRIL 9, 2013

**SENATE BILL**

**No. 534**

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**Introduced by Senator Hernandez**

February 21, 2013

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An act to ~~amend~~ *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.*

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 time  
4 to time amend or repeal, in accordance with Chapter 3.5  
5 (commencing with Section 11340) of Part 1 of Division 3 of Title  
6 2 of the Government Code, reasonable rules and regulations as  
7 may be necessary or proper to carry out the purposes and intent  
8 of this chapter and to enable the ~~state~~ department to exercise the  
9 powers and perform the duties conferred upon it by this chapter,  
10 not inconsistent with any of the provisions of any statute of this  
11 state.  
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 (c) All regulations relating to licensed clinics in effect on  
16 December 31, 1977, that were adopted by the ~~state~~ department,  
17 shall remain in full force and effect until altered, amended, or  
18 repealed by the director.  
19 (d) Until the ~~state~~ department adopts regulations relating to the  
20 provision of services by a chronic dialysis clinic, a surgical clinic,  
21 or a rehabilitation clinic, the following clinics licensed or seeking  
22 licensure shall comply with the following federal certification  
23 standards in effect immediately preceding January 1, 2013:  
24 (1) A chronic dialysis clinic shall comply with ~~applicable~~ federal  
25 certification standards for an end stage renal disease ~~clinic~~ *clinic*,

1 *as specified in Sections 494.1 to 494.180, inclusive, of Title 42 of*  
2 *the Code of Federal Regulations.*

3 (2) A surgical clinic, as defined in subdivision (b) of Section  
4 1204, shall comply with ~~applicable~~ federal certification standards  
5 for an ambulatory surgical ~~clinic~~ *clinic, as specified in Sections*  
6 *416.1 to 416.52, inclusive, of Title 42 of the Code of Federal*  
7 *Regulations.*

8 (3) A rehabilitation clinic shall comply with ~~applicable~~ federal  
9 certification standards for a comprehensive outpatient rehabilitation  
10 ~~facility~~ *facility, as specified in Sections 485.50 to 485.74, inclusive,*  
11 *of Title 42 of the Code of Federal Regulations.*

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

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

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

23 1225. (a) *The department shall adopt, and may from time to*  
24 *time amend or repeal, in accordance with Chapter 3.5*  
25 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
26 *2 of the Government Code, such reasonable rules and regulations*  
27 *as may be necessary or proper to carry out the purposes and intent*  
28 *of this chapter and to enable the department to exercise the powers*  
29 *and perform the duties conferred upon it by this chapter, not*  
30 *inconsistent with any of the provisions of any statute of this state.*  
31 *The rules and regulations for primary care clinics shall be separate*  
32 *and distinct from the rules and regulations for specialty clinics.*

33 (b) *All regulations relating to licensed clinics in effect on*  
34 *December 31, 1977, which were adopted by the department, shall*  
35 *remain in full force and effect until altered, amended, or repealed*  
36 *by the director.*

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

38 ~~SEC. 2.~~

39 *SEC. 3. Section 1275.3 of the Health and Safety Code is*  
40 *amended to read:*

1 1275.3. (a) The State Department of Public Health and the  
2 State Department of Developmental Services shall jointly develop  
3 and implement licensing regulations appropriate for intermediate  
4 care facility/developmentally disabled-nursing and intermediate  
5 care facility/developmentally disabled-continuous nursing.

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

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

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

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

23 (3) Require the State Department of Developmental Services  
24 to review and approve an applicant’s facility program plan as a  
25 prerequisite to the licensing and certification process.

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

32 (c) Until the departments adopt regulations pursuant to this  
33 section, relating to services by intermediate care  
34 facilities/developmentally disabled-nursing, licensed intermediate  
35 care facilities/developmentally disabled-nursing shall comply with  
36 ~~applicable~~ federal certification standards for intermediate care  
37 facilities for individuals with intellectual ~~disabilities~~ *disabilities*,  
38 *as specified in Sections 483.400 to 483.480, inclusive, of Title 42*  
39 *of the Code of Federal Regulations*, in effect immediately  
40 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 (e) *This section shall remain in effect only until January 1, 2018,*  
6 *and as of that date is repealed, unless a later enacted statute, that*  
7 *is enacted before January 1, 2018, deletes or extends that date.*

8 SEC. 4. *Section 1275.3 is added to the Health and Safety Code,*  
9 *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 to*  
33 *review and approve an applicant's program plan as part of the*  
34 *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) Regulations developed pursuant to this section shall include  
2 licensing fee schedules appropriate to facilities which will  
3 encourage their development.

4 (d) Nothing in this section supersedes the authority of the State  
5 Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and  
6 13143.6 to the extent that these sections are applicable to  
7 community care facilities.

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

9 ~~SEC. 3.~~

10 SEC. 5. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.