

**Assembly Bill No. 1731**

## CHAPTER 451

An act to amend Sections 1250, 1253, 1265, 1267, 1267.5, 1294, 1298, 1331, 1333, 1336.2, 1337.1, 1337.3, 1417.2, 1417.3, 1417.4, 1420, 1421.1, 1421.2, 1422, 1422.5, 1424, 1428, 1428.1, 1438, and 1599.1 of, to add Sections 1276.7, 1325.5, 1417.15, 1418.91, 1422.6, 1423.5, 1424.5, 1429.1, and 1437.5 to, and to repeal Sections 1430.5, 1435, and 1435.5 of, the Health and Safety Code, to amend Section 14124.7 of, and to add Section 14126.02 to, the Welfare and Institutions Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor September 14, 2000. Filed with Secretary of State September 15, 2000.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 1731, Shelley. Long-term health care facilities.

Existing law provides for the licensure and regulation of health facilities, including nursing facilities, by the State Department of Health Services. Existing law defines a nursing facility for purposes of these provisions.

This bill would revise the definition of nursing facility to mean a health facility licensed under state law that is certified to participate as a provider of care as a skilled nursing facility in the federal Medicare program or as a nursing facility in the federal Medicaid program, or as both.

Existing law prohibits the operation, establishment, management, conduct, or maintenance of a health facility without having first obtained a license, or the continued operation, conduct, or maintenance of an existing health facility without having obtained a license. Existing law also authorizes the court to appoint a receiver to temporarily operate an existing long-term health care facility under certain conditions.

This bill would expressly except the court-appointed receiver from the prohibition against operating a long-term health care facility without having obtained a license.

Existing law requires the filing of an application with the department for licensure as a health facility or for approval to provide a special service at a health facility. Under existing law the application must contain certain information, including any information required by the department for the proper administration and enforcement of these provisions. Existing

law requires that the information provided to the department under this provision be made available to the public upon request.

(3) If the resident appeals pursuant to this subdivision, and the resident is eligible under the Medi-Cal program, the resident shall remain in the hospital and the hospital may be reimbursed at the administrative day rate, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(4) If the resident appeals pursuant to this subdivision, and the resident is not eligible under the Medi-Cal program, the resident shall remain in the hospital if other payment is available, pending the final determination of the hearing officer, unless the resident agrees to placement in another facility.

(5) If the resident is not eligible for participation in the Medi-Cal program and has no other source of payment, the hearing and final determination shall be made within 48 hours.

SEC. 34. Section 14124.7 of the Welfare and Institutions Code is amended to read:

14124.7. (a) No long-term health care facility participating as a provider under the Medi-Cal program shall seek to evict out of the facility or, effective January 1, 2002, transfer within the facility, any resident as a result of the resident changing his or her manner of purchasing the services from private payment or Medicare to Medi-Cal, except that a facility may transfer a resident from a private room to a semiprivate room if the resident changes to Medi-Cal payment status. This section also applies to residents who have made a timely and good faith application for Medi-Cal benefits and for whom an eligibility determination has not yet been made.

(b) This section does not apply to any resident of a skilled nursing facility or intermediate care facility, receiving respite care services, as defined in Section 1418.1 of the Health and Safety Code, unless it is already being provided through a Medicaid waiver program pursuant to Section 1396n of Title 42 of the United States Code, or is already allowed as a covered service by the Medi-Cal program.

(c) Nothing in this section shall limit a facility's ability to transfer a resident within a facility, as provided by law, because of a change in a resident's health care needs or if the bed retention would result in there being no available Medicare-designated beds within a facility.

(d) This section shall be implemented only to the extent it does not conflict with federal law.

SEC. 35. Section 14126.02 is added to the Welfare and Institutions Code, to read:

14126.02. (a) It is the intent of the Legislature to devise a Medi-Cal long-term care reimbursement methodology that more effectively ensures individual access to appropriate long-term care services, promotes quality resident care, advances decent wages and benefits for nursing home workers, supports provider compliance with all applicable state and federal requirements, and encourages administrative efficiency.

(b) (1) The department shall review the current Medi-Cal reimbursement system to evaluate the extent to which the methodology supports the objectives stated in subdivision (a). The scope of the review shall encompass the structure currently used for peer groups, audits, projections, updates and other rate development factors that have an impact on the quality of care.

(2) The department shall examine several alternative rate methodology models for a new Medi-Cal reimbursement system for skilled nursing facilities to include, but not be limited to, consideration of the following:

(A) Classification of residents based on the resource utilization group system or other appropriate acuity classification system.

(B) Facility specific case mix factors.

(C) Direct care labor based factors.

(D) Geographic or regional differences in the cost of operating facilities and providing resident care.

(c) The department shall submit to the Legislature a formal report and proposal for any statutory changes necessary to implement recommendations related to best meeting the objectives stated in subdivision (a) and the costs associated with any changes.

(d) The alternatives for a new system described in paragraph (2) of subdivision (b) shall be developed in consultation with recognized experts with experience in long-term care reimbursement, economists, the Attorney General, the federal Health Care Financing Administration, and other interested parties.

(e) In implementing this section, the department may contract as necessary, on a bid or nonbid basis, for professional consulting services from nationally recognized higher education and research institutions, or other qualified individuals and entities not associated with a skilled nursing facility, with demonstrated expertise in long-term care reimbursement systems. The review specified in subdivision (b) shall be conducted with all possible expedience. This subdivision establishes an accelerated process for issuing contracts pursuant to this section and contracts entered into pursuant to this subdivision shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contracts Code. SEC. 36. (a) The sum of five hundred thousand dollars (\$500,000) is hereby appropriated from the General Fund to the State Department of Health Services without regard to fiscal years for the purpose of implementing Section 14126.02 of the Welfare and Institutions Code.

(b) It is the intent of the Legislature that the amount of the appropriation specified in subdivision (a) be matched by federal funds.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.