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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 2. Health Facilities [1250 - 1339.59] (*Chapter 2 repealed and added by Stats. 1973, Ch. 1202.*)

ARTICLE 10. Primary Health Service Hospitals [1339 - 1339.25] (*Article 10 added by Stats. 1978, Ch. 1332.*)

1339. The Legislature hereby finds and declares that:

- (a) In many areas, small, rural general acute care hospitals are experiencing financial difficulties brought upon partially because of governmental regulations and underutilization of acute care beds.
- (b) Closure of such facilities, in most cases, would represent a direct threat to the health and well-being of both the resident and tourist populations served by these facilities.
- (c) Availability and accessibility to primary and preventive health care services could be greatly improved through coordination with existing resources in the area.
- (d) Because of the special attributes of the small, rural general acute care hospital, such as longevity, focus of community support, critical geographic location, and availability of services, such facilities could serve as the major focal point for the promotion of health and the delivery of health care services within the rural community.
- (e) There is a lack of systematic study and evaluation of the economics of efficiently operating small rural hospitals and the ways in which these hospitals might more effectively meet the health needs of their communities.

(Amended by Stats. 1982, Ch. 1010, Sec. 1.)

1339.3. It is, therefore, the intent of the Legislature to designate certain general acute care hospitals as primary health service hospitals, which will facilitate the diversification of the small rural hospital. The designation shall apply only to those general acute care hospitals that meet the criteria set forth in this article and which are designated by the state department.

(Repealed and added by Stats. 1982, Ch. 1010, Sec. 3.)

1339.5. As used in this article, unless otherwise indicated:

- (a) "Health systems agency" means a health systems agency established pursuant to Public Law 93-641.
- (b) "Primary care mid-level health practitioner" means a physician assistant certified pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code and also means a registered nurse who meets the standards for a nurse practitioner adopted pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code, and also means a nurse midwife certified pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.
- (c) "Swing bed" means beds licensed for general acute care pursuant to Section 1250.1 that may, subject to this article, be used as skilled nursing beds, as classified in Section 1250.1. Swing beds shall retain the general acute care bed classification, for the purposes of Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.

(Amended by Stats. 1996, Ch. 1023, Sec. 159. Effective September 29, 1996.)

1339.7. The state department shall administer the program authorized in this article. In administering the program, the state department shall do all of the following:

- (a) Verify hospital eligibility, pursuant to Section 1339.9, and designate those hospitals as primary health service hospitals.
- (b) Establish criteria for the health service plans pursuant to Section 1339.15.
- (c) Review a general acute care hospital's health service plan based upon recommendations of the local health systems agency, input from local public meetings, recommendations of the medical advisory panel, as appropriate, and the adequacy of the plan in

meeting the criteria established pursuant to this section. The state department shall approve, deny, or defer the plan in whole or in part, and shall notify the hospital of its findings, in writing, within 120 days after receipt of the plan. The plan shall be deemed approved if the hospital has not received notification from the state department within the 120-day period.

(d) Negotiate and grant exceptions to the licensure requirements for general acute care hospitals that are necessary to serve the purposes of this article when the granting of those exceptions do not jeopardize the health and welfare of the patients. Exceptions that are granted shall be consistent with the primary health service hospital's plan and any amendments thereto.

(e) Convene an advisory panel to review the medical-surgical and obstetrical services proposed as part of the primary hospital service plan and make recommendations to the state department on the medical appropriateness of those services according to the primary health service hospital's proposed plan. The panel shall include, but not be limited to, a rural hospital administrator, a rural family physician and surgeon, a rural hospital nurse administrator, an internist, a primary care mid-level practitioner, and a physician and surgeon from a hospital which serves as a referral center for rural hospitals.

(f) Issue evidence of primary health service hospital designation and evidence of the number of acute care beds approved as swing beds pursuant to paragraph (4) of subdivision (b) of Section 1339.15.

(g) Monitor the performance of the primary health service hospital to assure compliance with the hospital's plan and licensure requirements from which those hospitals are not exempt.

(h) Immediately upon the denial of a primary health service hospital's health service plan, or a portion thereof, notify the hospital in writing. Within 20 days after the state department mails the notice, the hospital may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted therein.

(i) Compile and make available to health systems agencies and primary health service hospitals, information regarding state and federal funding programs for which the primary health service hospital may be eligible, the procedures necessary to apply for funding, and a description of how such requests may be incorporated into a primary health service hospital's plan and opportunities for diversification of services, the requirements and feasibility, and the procedures for development of those services.

(j) On behalf of primary health service hospitals, seek appropriate federal waivers consistent with the intent of this act.

(k) Contract with one or more health systems agencies to perform the functions specified in subdivision (c) of Section 1339.11.

(l) Develop or assist hospitals submitting a primary health service plan pursuant to Section 1339.15 to develop the following:

(1) Alternative methods of filing claims which reduce administrative costs.

(2) Alternative methods of Medi-Cal payment to hospitals.

(3) Other methods of filing claims which reduce administrative costs.

(4) Simplified and abbreviated procedures required by the department of Medi-Cal costs reports.

(5) An abbreviated medical and social review process and other control processes.

(m) Provide technical assistance to primary health service hospitals in development of their health service plan.

(Amended by Stats. 2019, Ch. 632, Sec. 6. (AB 1622) Effective January 1, 2020.)

1339.8. The Office of Statewide Health Planning and Development shall review and approve the number of swing beds that may be designated pursuant to paragraph (4) of subdivision (b) of Section 1339.15, based upon community need and projected utilization and issue a certificate of need pursuant to the review and approval. Except as provided herein, a primary health service hospital shall be subject to the requirements pertaining to approval of projects, as defined in Section 127170, that are set forth in Chapter 1 (commencing with Section 127125) of Part 2 of Division 107.

(Amended by Stats. 1996, Ch. 1023, Sec. 160. Effective September 29, 1996.)

1339.9. In order to be eligible for designation as a primary health service hospital, a hospital shall be licensed pursuant to subdivision (a) of Section 1250 and meet one of the following criteria:

(a) Be located outside of a standard metropolitan statistical area, be located at least 15 miles from another licensed acute care hospital, and have 60 or fewer acute care beds.

(b) Be located at least 20 miles from any other licensed acute care hospital and have 60 or fewer acute care beds.

(c) Be the only licensed acute care hospital in the county and have fewer than 100 acute care beds.

(Repealed and added by Stats. 1982, Ch. 1010, Sec. 9.)

1339.10. (a) The department may request and maintain employment information for nurse assistants and direct care staff of intermediate care facilities/developmentally disabled, other than state-operated intermediate care facilities/developmentally disabled that secure criminal record clearances for employees through another method, intermediate care facilities/developmentally disabled-habilitative, or intermediate care facilities/developmentally disabled-nursing.

(b) Within five working days of receipt of a criminal record or information from the Department of Justice pursuant to Section 1338.5, the department shall notify the licensee and applicant of any criminal convictions.

(c) The department shall conduct a feasibility study to assess the additional technology requirements necessary to include previous and current employment information on its registry and to make that information available to potential employers. The department shall report to the Legislature by July 1, 2000, as to the results of the study.

(Added by renumbering Section 1339.9 (as added by Stats. 1998, Ch. 716, Sec. 1) by Stats. 2015, Ch. 303, Sec. 248. (AB 731) Effective January 1, 2016.)

1339.11. Health systems agencies shall do all of the following:

(a) Verify information in the health service plan received from hospitals in their respective health service area.

(b) Within 45 days make a recommendation, including findings, to the state department regarding the need for, and ability of the hospital to implement its health services plan for hospitals in their respective health service area.

(c) Upon contracting with the state department, provide technical assistance to primary health service hospitals in the preparation of health services pursuant to Section 1339.15.

(d) In the event a health systems agency is unable to perform the functions, the state department shall perform those functions.

(Repealed and added by Stats. 1982, Ch. 1010, Sec. 11.)

1339.13. Any primary health service hospital, or any group thereof, may submit a health service plan to the state department when a public meeting, which satisfies the following criteria, has been conducted in the community by the hospital with respect to such hospital's health service plan for the community, or when more than one hospital is involved, in the communities for which the hospitals propose to provide primary health service hospital services:

(a) The plan is made available for public review at least two weeks prior to the public meeting.

(b) Notices announcing the public meeting are posted in publicly visible places in the community and at the hospital at least 10 days prior to the public meeting.

(c) A public notice is published in a newspaper of general circulation not less than 10 or more than 20 days prior to the public meeting.

(Repealed and added by Stats. 1982, Ch. 1010, Sec. 13.)

1339.15. A primary health service hospital may request waivers pursuant to subdivision (d) of Section 1339.7, and Section 1339.25, authorization for swing beds pursuant to Section 1339.8 and seek the benefits pursuant to subdivision (l) of Section 1339.7 by submitting a health service plan. The health service plan shall be submitted to the state department and the health systems agency and shall contain the following as appropriate and dependent on the needs of the community:

(a) A description of the hospital's current capabilities with emphasis on the following:

(1) Primary and preventive care services including life saving services.

(2) Community access to health services.

(3) Cost effectiveness.

(b) Additionally, and as appropriate, the plan shall include:

(1) A description of any services to be deleted from those authorized by license at the time the plan is submitted with a description of the impact the deletion of this service will have on the community.

(2) A description of any services to be added to those authorized by license at the time the plan is submitted, including evidence of market feasibility, methods and schedule for plan implementation, evidence of community and medical staff support of the plan, and evidence of coordination with other health providers and services in the community.

(3) Requests for waivers or exemptions which do not jeopardize the health, safety, and well-being of patients affected, and which are needed for increased operational efficiency or to implement the health service plan.

(4) Identification of the number of acute care beds in the hospital, if any, requested for use as swing beds, depending upon community need and projected utilization, including a description of the way in which medical care will be provided to those patients and a description of how the facility will provide for the transfer of long-term care patients when the need for acute care beds develops.

(Repealed and added by Stats. 1982, Ch. 1010, Sec. 15.)

1339.17. A primary health service hospital may amend its health service plan. Such amendments shall be subject to the provisions of subdivision (c) of Section 1337.7 and Section 1339.13. Amendments shall not be made to such plan solely for the purpose of circumventing sanctions administered for noncompliance with such hospital's health service plan.

(Amended by Stats. 1982, Ch. 1010, Sec. 16.)

1339.19. The primary health service hospital shall operate under the following requirements:

- (a) The primary health service hospital shall be subject to the regulations contained in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code that are not waived as a result of the health service plan or subsequent amendments to such plan.
- (b) Services offered by the primary health service hospital shall be limited in scope according to its license or authorized by an approved health service plan, and any subsequent amendments thereto.
- (c) All or a portion of the health service plan shall be implemented, based upon an agreed timetable between the state department and the hospital, and to the extent that state and federal requirements are waived.
- (d) The hospital shall remain in compliance with its plan in accordance with subdivision (c).

(Amended by Stats. 1983, Ch. 1285, Sec. 5.)

1339.21. (a) In accordance with the procedures prescribed in subdivision (h) of Section 1339.7, the state department shall terminate a hospital's health service plan or its designation as a primary health service hospital, or both, when it finds that the hospital is not in compliance with Section 1339.19 or the welfare or safety of the patients served by the facility is adversely affected, or both.

(b) A primary health service hospital may terminate its designation or health service plan, or both, after giving a 30-day notice to the state department.

(c) Upon termination from the project, as prescribed by this section, the hospital shall revert to the same status it held immediately preceding its designation or approval of its plan, or both.

(Amended by Stats. 1982, Ch. 1010, Sec. 19.)

1339.25. Implementation of this article shall be consistent with federal rules and regulations in effect on January 1, 1979, and as adopted on or after such date. In keeping with the intent in enacting this article and to the extent permitted by federal law, each department within the Health and Welfare Agency may waive requirements, provide exemptions to the enforcement of statutes upon which the requirements were based, allow flexible enforcement of regulations and policies, and make resources available which are necessary for the administration of this article, including technical assistance to primary health service hospitals in developing their health service plans.

(Amended by Stats. 1982, Ch. 1010, Sec. 21.)