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AB-614 Health care standards of practice. (2015-2016)

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Assembly Bill No. 614

CHAPTER 435

An act to amend Sections 1254.5 and 1275 of the Health and Safety Code, relating to health facilities.

[Approved by Governor October 02, 2015. Filed with Secretary of State October 02, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 614, Brown. Health care standards of practice.

Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health. A violation of these provisions is a crime. Existing law authorizes the department to promulgate rules and regulations regarding health facilities, in accordance with the provisions of the Administrative Procedure Act.

This bill would authorize the department to use a streamlined administrative process to update regulatory references to health care standards of practice adopted by a state or national association when outdated standards are already referenced in the California Code of Regulations. The procedure created by this bill would, among other things, require the department to post the update on the department's Internet Web site, notify stakeholders of the proposed change, submit notice of the proposed change to the Office of Administrative Law for publication in the California Regulatory Notice Register, accept comments, and consider those comments prior to the adoption of the new standards. The bill would require, if a member of the public requests a public hearing, that the department hold a hearing and consider any comments. The bill would, if comments are submitted in opposition to the proposed change, require the department to instead follow the procedures provided for by the Administrative Procedure Act.

Existing law requires inpatient treatment of eating disorders to be provided only in state licensed hospitals. Existing law defines "eating disorders" for these purposes as anorexia nervosa and bulimia as defined in the 1980 Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

This bill would instead define "eating disorders" to have the meaning of the term as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, as published by the American Psychiatric Association. By changing the definition of a crime applicable to health facilities, this bill would create 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1254.5 of the Health and Safety Code is amended to read:

1254.5. (a) The Legislature finds and declares that the disease of eating disorders is not simply medical or psychiatric, but involves biological, sociological, psychological, family, medical, and spiritual components. In addition, the Legislature finds and declares that the treatment of eating disorders is multifaceted, and like the treatment of chemical dependency, does not fall neatly into either the traditional medical or psychiatric milieu.

(b) The inpatient treatment of eating disorders shall be provided only in state licensed hospitals, which may be general acute care hospitals as defined in subdivision (a) of Section 1250, acute psychiatric hospitals as defined in subdivision (b) of Section 1250, or any other licensed health facility designated by the State Department of Public Health.

(c) "Eating disorders," for the purposes of this section, shall have the meaning of the term as defined in the Diagnostic and Statistical Manual of Mental Disorders, as published by the American Psychiatric Association.

SEC. 2. Section 1275 of the Health and Safety Code is amended to read:

1275. (a) (1) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, any reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any other law including, but not limited to, the California Building Standards Law, Part 2.5 (commencing with Section 18901) of Division 13.

(2) All regulations in effect on December 31, 1973, which were adopted by the State Board of Public Health, the State Department of Public Health, the State Department of Mental Hygiene, or the State Department of Health relating to licensed health facilities shall remain in full force and effect until altered, amended, or repealed by the director or pursuant to Section 25 or other provisions of law.

(b) Notwithstanding this section or any other law, the Office of Statewide Health Planning and Development shall adopt and enforce regulations prescribing building standards for the adequacy and safety of health facility physical plants.

(c) The building standards adopted by the State Fire Marshal, and the Office of Statewide Health Planning and Development pursuant to subdivision (b), for the adequacy and safety of freestanding physical plants housing outpatient services of a health facility licensed under subdivision (a) or (b) of Section 1250 shall not be more restrictive or comprehensive than the comparable building standards established, or otherwise made applicable, by the State Fire Marshal and the Office of Statewide Health Planning and Development to clinics and other facilities licensed pursuant to Chapter 1 (commencing with Section 1200).

(d) Except as provided in subdivision (f), the licensing standards adopted by the department under subdivision (a) for outpatient services located in a freestanding physical plant of a health facility licensed under subdivision (a) or (b) of Section 1250 shall not be more restrictive or comprehensive than the comparable licensing standards applied by the department to clinics and other facilities licensed under Chapter 1 (commencing with Section 1200).

(e) Except as provided in subdivision (f), the state agencies specified in subdivisions (c) and (d) shall not enforce any standard applicable to outpatient services located in a freestanding physical plant of a health facility licensed pursuant to subdivision (a) or (b) of Section 1250, to the extent that the standard is more restrictive or comprehensive than the comparable licensing standards applied to clinics and other facilities licensed under Chapter 1 (commencing with Section 1200).

(f) All health care professionals providing services in settings authorized by this section shall be members of the organized medical staff of the health facility to the extent medical staff membership would be required for the provision of the services within the health facility. All services shall be provided under the respective responsibilities of the governing body and medical staff of the health facility.

(g) (1) Notwithstanding any other law, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, update references in the California Code of Regulations to health care standards of practice adopted by a recognized state or national association when the state or national association and its outdated standards are already named in the California Code of Regulations. When updating these references, the department shall:

(A) Post notice of the department's proposed adoption of the state or national association's health care standards of practice on its Internet Web site for at least 45 days. The notice shall include the name of the state or national association, the title of the health care standards of practice, and the version of the updated health care standards of practice to be adopted.

(B) Notify stakeholders that the proposed standards have been posted on the department's Internet Web site by issuing a mailing to the most recent stakeholder list on file with the department's Office of Regulations.

(C) Submit to the Office of Administrative Law the notice required pursuant to this paragraph. The office shall publish in the California Regulatory Notice Register any notice received pursuant to this subparagraph.

(D) Accept public comment for at least 30 days after the conclusion of the 45-day posting period specified in subparagraph (A).

(2) If a member of the public requests a public hearing during the public comment period, a hearing shall be held and comments shall be considered prior to the adoption of the state or national association's health care standards of practice.

(3) If no member of the public requests a public hearing, the department shall consider any comments received during the public comment period prior to the adoption of the health care standards.

(4) Written responses to public comments shall not be required. If public comments are submitted in opposition to the adoption of the proposed standards, or the state or national association named in the California Code of Regulations no longer exists, the department shall seek adoption of the standards using the regulatory process specified in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. A state or national association named in the California Code of Regulations that has changed its name does not constitute an association that no longer exists.

(5) If no opposition is received by the department, the department shall update its Internet Web site to notify the public that the standard has been adopted and the effective date of that standard.

(h) For purposes of this section, "freestanding physical plant" means any building which is not physically attached to a building in which inpatient services are provided.

SEC. 3. 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.