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SB-353 Hospice: services to seriously ill patients. (2021-2022)

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Senate Bill No. 353

CHAPTER 488

An act to amend Section 1747.3 of the Health and Safety Code, relating to hospice.

[Approved by Governor October 04, 2021. Filed with Secretary of State October 04, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 353, Roth. Hospice: services to seriously ill patients.

Under the California Hospice Licensure Act of 1990, the State Department of Public Health licenses and regulates persons or agencies that provide hospice, which is a type of interdisciplinary health care that includes palliative care to individuals experiencing the last phases of life due to the existence of a terminal disease and supportive care to the primary caregivers and family of the hospice patient. A violation of the act is a misdemeanor. The act authorizes, until January 1, 2022, a licensee under the act to provide any of the authorized interdisciplinary hospice services, including palliative care, to a patient who has a serious illness.

This bill would extend the authority under these provisions until January 1, 2027.

Existing law requires a licensee, on or before January 1, 2019, January 1, 2020, and January 1, 2021, to provide the department with designated information for the period of time the licensee provided palliative care, on a form prescribed by the department.

This bill would extend this requirement to each April 30, beginning April 30, 2022, until April 30, 2025. The bill would instead require the licensee to provide the department with information for the period of time in the prior calendar year during which the licensee was approved to provide palliative care, and would require the information to be reported through the department's online reporting portal, as specified, rather than on a form prescribed by the department.

Existing law requires the department, on or before June 1, 2021, to convene a stakeholder meeting to discuss the results of the information collected from licensees pursuant to these provisions.

This bill would instead require the department to convene the stakeholder meeting on or before January 15, 2026.

By extending the operation of provisions of law creating a crime, this bill would impose 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 1747.3 of the Health and Safety Code is amended to read:

1747.3. (a) Notwithstanding any other law, beginning January 1, 2018, a licensee pursuant to this chapter may provide any interdisciplinary hospice services described in this chapter, including, but not limited to, palliative care, to a patient with a serious illness as determined by the physician and surgeon in charge of the care of the patient, including, among other kinds of patients, a patient who continues to receive curative treatment from other licensed health care professionals.

(b) A licensee that elects to provide palliative care pursuant to this section shall provide the department with the date the licensee intends to begin providing the palliative care no less than 45 days before that date and all of the following:

- (1) The completed relevant portions of a form HS 200, or a successor form, as determined by the department.
- (2) A complete federal form CMS 417, or a successor form, as determined by the department.

(c) (1) The department shall not require the documents submitted pursuant to subdivision (b) to be approved prior to the licensee providing palliative care pursuant to this section.

(2) The department shall not charge an application fee to provide any care or services pursuant to this section.

(d) (1) On or before April 30, 2022, and each April thereafter until April 30, 2025, a licensee shall provide the department with information for the period of time in the prior calendar year during which the licensee provided palliative care pursuant to this section through the department's online reporting portal, including, but not limited to, all of the following:

- (A) The number of nonhospice patients who received palliative care pursuant to this section.
- (B) The number of patients enrolled in hospice.
- (C) The primary diagnoses of the patients for which the licensee provided palliative care pursuant to this section.
- (D) The numbers and types of providers hired during the previous 12 months.
- (E) The numbers and types of providers who left employment during the previous 12 months.
- (F) Complaints received by the licensee during the previous 12 months that related to all the following:
 - (i) Events that caused or were likely to cause serious injury, harm, impairment, or death.
 - (ii) Events or incidents that negatively impacted a patient's mental, physical, or psychosocial status and were of such consequence to the patient's well-being that a rapid response was required.
 - (iii) Delays in patient care for hospice and nonhospice patients who received palliative care pursuant to this section.
 - (iv) Qualifications of staff.

(2) A licensee that has been approved by the department to provide palliative care pursuant to this section that has either provided the department with the date the licensee intends to begin providing palliative care pursuant to this section, or has notified the department of its cessation of palliative care provision pursuant to subdivision (g), shall report to the department pursuant to paragraph (1) regardless of whether the licensee provided palliative care pursuant to this section during the prior calendar year.

(e) During the period of time a licensee provides palliative care pursuant to this section, the licensee shall simultaneously submit to the department all information the licensee provides to the Office of Statewide Health Planning and Development.

(f) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement, interpret, or make specific the provisions of this section by means of all-facility letters, or similar instructions, without taking regulatory action.

(g) If the licensee ceases to provide palliative care services pursuant to this section on or before January 1, 2027, the licensee shall submit to the department the same documents as required in subdivision (b).

(h) The provisions of this section shall not be applicable to a hospice facility established pursuant to subdivision (n) of Section 1250, or Section 1339.30 or 1339.40.

(i) This section shall not be deemed to modify the provision of hospice care required pursuant to Section 1368.2.

(j) On or before January 15, 2026, the department shall convene a stakeholder meeting to discuss the results of the information collected pursuant to this section. The department may, at its discretion, use electronic means, such as a webinar, to convene the stakeholder meeting.

(k) For purposes of this section, "serious illness" shall mean a condition that may result in death, regardless of the estimated length of the patient's remaining period of life.

(l) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 2. 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.