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AB-1309 Long-term health care facilities: admission contracts. (2023-2024)

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Assembly Bill No. 1309

CHAPTER 835

An act to amend Sections 1439.6 and 1599.78 of the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1309, Reyes. Long-term health care facilities: admission contracts.

Existing law provides for the licensing and regulation of health facilities, including, but not limited to, long-term health care facilities, as defined, by the State Department of Health Care Services. A violation of the provisions relating to these facilities is a crime. Existing law requires a contract for admission to a long-term care facility to state that a resident shall not be involuntarily transferred within, or discharged from, a long-term health care facility unless the resident is given reasonable notice in writing, and transfer or discharge planning, as specified. Existing law requires the notice to state the reason for the transfer or discharge. Existing law requires the facility to immediately notify the State Long-Term Care Ombudsman if the discharge is involuntary.

When a resident is notified in writing of a facility-initiated transfer or discharge from a long-term health care facility, existing law requires that the local long-term care ombudsman be sent a copy of the notice.

This bill would require the facility to provide, within 48 hours of the written notice of a facility-initiated transfer or discharge, a copy of the resident's discharge needs and discharge plan. The bill would require the facility to provide a copy of the resident's discharge summary prior to the proposed transfer or discharge date. The bill would require the facility to provide these documents at no cost to the resident. If the resident requests a transfer or discharge appeal hearing, the bill would require both the resident and the facility to provide all documents and records to be used by the party at the hearing, as specified. Because a violation of these requirements by a long-term health care facility would be a crime, the 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 1439.6 of the Health and Safety Code is amended to read:

1439.6. (a) Except as provided in subdivision (b), if a resident is notified in writing of a facility-initiated transfer or discharge from a long-term health care facility, the facility shall also send a copy of the notice to the local long-term care ombudsman at the same

time notice is provided to the resident or the resident's representative.

(b) If a resident is subject to a facility-initiated transfer to a general acute care hospital on an emergency basis, the facility shall provide a copy of the notice to the ombudsman as soon as practicable.

(c) The copy of the notice shall be sent by fax machine or email, as may be directed by the local long-term care ombudsman, unless the facility does not have fax or email capability, in which case the copy of the notice shall be sent by first-class mail, postage prepaid. A facility's failure to timely send a copy of the notice shall constitute a class B violation, as defined in subdivision (e) of Section 1424.

(d) For the purposes of this section, a "facility-initiated transfer or discharge" is a transfer or discharge that is initiated by the facility and not by the resident, whether or not the resident agrees to the facility's decision.

(e) Within 48 hours of giving the written notice of a facility-initiated transfer or discharge, the facility shall provide to the resident and, if applicable, the resident's representative a copy of both of the following:

(1) The evaluation of the resident's discharge needs and discharge plan as required by federal law and regulations or the most current discharge care plan.

(2) In the case of the transfer or discharge being necessary for the resident's welfare because the resident's needs cannot be met in the facility, all of the following information if the following information is not included in the most current discharge care plan:

(A) A written description of the specific resident's needs that cannot be met.

(B) Facility attempts to meet the resident's needs.

(C) The services available at the receiving facility that meet the resident's needs.

(f) Prior to the proposed transfer or discharge date, the facility shall provide to the resident and, if applicable, the resident's representative a copy of the resident's discharge summary.

(g) Any documents provided to the resident and, if applicable, the resident's representative pursuant to this section shall be at no cost to the resident and, if applicable, the resident's representative.

(h) The documents described in subdivisions (e) and (f) do not have to be provided to the resident and, if applicable, the resident's representative if the resident or the resident's representative request that the documents not be provided or if no discharge is proposed.

(i) If a transfer or discharge appeal hearing is requested by the resident or, if applicable, the resident's representative, the facility shall provide to the resident or the resident's representative the opportunity to examine, at a reasonable time before the date of the hearing, absent exigent circumstances, and during the hearing, all documents and records to be used by the facility at the hearing. The resident or, if applicable, the resident's representative shall provide to the facility the opportunity to examine, at a reasonable time before the date of the hearing, absent exigent circumstances, and during the hearing, all documents and records to be used by the resident or, if applicable, the resident's representative at the hearing.

(j) The provisions of this section are intended to be consistent with federal law and regulations.

SEC. 2. Section 1599.78 of the Health and Safety Code is amended to read:

1599.78. (a) A contract of admission shall state that except in an emergency, a resident may not be involuntarily transferred or discharged from a long-term health care facility unless the resident and, if applicable, the resident's representative, is given reasonable notice in writing and transfer or discharge planning as required by law. The written notice shall state the reason for the transfer or discharge.

(b) The facility shall promptly notify the Office of the State Long-Term Care Ombudsman in every case of involuntary discharge as specified in Section 1439.7.

(c) The provisions of this section are intended to be consistent with federal law and regulations.

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.