

Senate Bill No. 587

CHAPTER 691

An act to add Sections 1262.5, 1262.6, 1262.7, and 1367.5 to the Health and Safety Code, and to add Sections 10117.5 and 10233.25 to the Insurance Code, relating to health facilities.

[Approved by Governor October 10, 2001. Filed
with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 587, Soto. Health facilities: critically or terminally ill patients: transfers.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is subject to criminal sanction.

This bill would require each hospital to have in effect a discharge planning policy that requires appropriate arrangements for posthospital care and a process that requires that each patient shall be informed of his or her continuing health care requirements, and would specify the implementation of certain patient discharge procedures, including a requirement that a transfer summary be provided when a patient is being transferred to a long-term health care facility.

The bill would require a hospital to advise a patient of certain rights prior to discharging the patient.

The bill would require hospitals to establish and implement a written policy to ensure that each patient receives information regarding each medication given at the time of his or her discharge.

Under existing law, one of the types of long-term health care facilities is a skilled nursing facility.

This bill would require that a skilled nursing facility shall admit a patient only upon a physician's order and only if the facility is able to provide necessary care for the patient. It would also impose other preadmission requirements upon skilled nursing facilities.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of its provisions a crime. Existing law also provides for the regulation of policies of disability insurance and long-term care policies and certificates by the Insurance Commissioner.

This bill would prohibit any health care service plan contract, certain disability insurer contracts, and any long-term care policies or



certificates that are issued, amended, renewed, or delivered on and after January 1, 2002, from containing a provision that prohibits or restricts any health facilities' compliance with the requirements of the bill.

Because the bill would impose additional requirements on health care service plans and health facilities, violations of which constitute a criminal offense, it would expand the scope of an existing crime, thereby creating 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.

The people of the State of California do enact as follows:

SECTION 1. (a) (1) It is the intent of the Legislature that each hospital patient be given information about his or her continuing health care requirements following discharge from the hospital. This is particularly important for patients transferred from a general acute care hospital to a skilled nursing facility or intermediate care facility.

(2) It is further the intent of the Legislature that each hospital patient be informed in writing of the right to information about continuing health care requirements following discharge from the hospital.

(b) (1) The Legislature finds and declares that patients being transferred to a skilled nursing facility or intermediate care facility need information regarding their continuing health care requirements so that they may advocate for appropriate care for themselves.

(2) The right to information regarding continuing health care requirements following discharge applies to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself.

(3) In addition, a patient may request that friends or family members be given this information, even if the patient is able to make his or her own decisions regarding medical care.

SEC. 2. Section 1262.5 is added to the Health and Safety Code, to read:

1262.5. (a) Each hospital shall have a written discharge planning policy and process.

(b) The policy required by subdivision (a) shall require that appropriate arrangements for posthospital care, including, but not limited to, care at home, in a skilled nursing or intermediate care facility,



or from a hospice, are made prior to discharge for those patients who are likely to suffer adverse health consequences upon discharge if there is no adequate discharge planning. If the hospital determines that the patient and family members or interested persons need to be counseled to prepare them for posthospital care, the hospital shall provide for that counseling.

(c) The process required by subdivision (a) shall require that the patient be informed, orally or in writing, of the continuing health care requirements following discharge from the hospital. The right to information regarding continuing health care requirements following discharge shall apply to the person who has legal responsibility to make decisions regarding medical care on behalf of the patient, if the patient is unable to make those decisions for himself or herself. In addition, a patient may request that friends or family members be given this information, even if the patient is able to make his or her own decisions regarding medical care.

(d) (1) A transfer summary shall accompany the patient upon transfer to a skilled nursing or intermediate care facility or to the distinct part-skilled nursing or intermediate care service unit of the hospital. The transfer summary shall include essential information relative to the patient's diagnosis, hospital course, pain treatment and management, medications, treatments, dietary requirement, rehabilitation potential, known allergies, and treatment plan, and shall be signed by the physician.

(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.

(e) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to Section 4074 of the Business and Professions Code.

(f) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, may not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.

SEC. 3. Section 1262.6 is added to the Health and Safety Code, to read:

1262.6. (a) Each hospital shall provide each patient, upon admission or as soon thereafter as reasonably practical, written information regarding the patient's right to the following:

(1) To be informed of continuing health care requirements following discharge from the hospital.



(2) To be informed that, if the patient so authorizes, that a friend or family member may be provided information about the patient's continuing health care requirements following discharge from the hospital.

(3) Participate actively in decisions regarding medical care. To the extent permitted by law, participation shall include the right to refuse treatment.

(4) Appropriate pain assessment and treatment consistent with Sections 124960 and 124961.

(b) A hospital may include the information required by this section with other notices to the patient regarding patient rights. If a hospital chooses to include this information along with existing notices to the patient regarding patient rights, this information shall be provided when the hospital exhausts its existing inventory of written materials and prints new written materials.

SEC. 4. Section 1262.7 is added to the Health and Safety Code, to read:

1262.7. (a) A skilled nursing facility, as defined in subdivision (c) of Section 1250, shall admit a patient only upon a physician's order and only if the facility is able to provide necessary care for the patient.

(b) The administrator or designee of a skilled nursing facility shall be responsible for screening patients for admission to the facility to ensure that the facility admits only those patients for whom it can provide necessary care. The administrator, or his or her designee, shall conduct preadmission personal interviews as appropriate with the patient's physician, the patient, the patient's next of kin or sponsor, or the representative of the facility from which the patient is being transferred. A telephone interview may be conducted when a personal interview is not feasible.

SEC. 5. Section 1367.5 is added to the Health and Safety Code, to read:

1367.5. No health care service plan contract that is issued, amended, renewed, or delivered on and after January 1, 2002, shall contain a provision that prohibits or restricts any health facilities' compliance with the requirements of Section 1262.5.

SEC. 6. Section 10117.5 is added to the Insurance Code, to read:

10117.5. No disability insurer contract that covers hospital, medical, or surgical benefits that is issued, amended, renewed, or delivered on and after January 1, 2002, shall contain a provision that prohibits or restricts any health facilities' compliance with the requirements of Section 1262.5 of the Health and Safety Code.

SEC. 7. Section 10233.25 is added to the Insurance Code, immediately following Section 10233.2, to read:



10233.25. No long-term care policy or certificate that is issued, amended, renewed, or delivered on and after January 1, 2002, shall contain a provision that prohibits or restricts any health facilities' compliance with the requirements of Section 1262.5 of the Health and Safety Code.

SEC. 8. 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.

