AMENDED IN SENATE APRIL 26, 2005

SENATE BILL No. 533

Introduced by Senator Dunn

February 18, 2005

An act to amend ~~Section~~ *Sections 1599.61 and* 1599.64 of the Health and Safety Code, relating to long–term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 533, as amended, Dunn. Long–term health care facilities: admission contracts.

~~Existing~~

Existing law requires all nursing facilities, skilled nursing facilities, and intermediate care facilities to use a standard admission agreement developed by the State Department of Health Services. Existing law prescribes the manner in which a contract of admission to a long–term health care facility and an abbreviated contract of admission to a respite care facility should be printed and written. ~~Existing law also requires a statement in an abbreviated contract of admission explaining the lack of coverage by Medi–Cal and discharge date.~~

This bill would ~~additionally~~ require a statement in ~~an~~ *a standard admission agreement and in an* abbreviated contract of admission ~~stating~~ *informing the person being admitted* whether or not the facility is covered by liability insurance.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

SECTION 1. Section 1599.61 of the Health and Safety Code is amended to read:

1599.61. (a) By January 1, 2000, all skilled nursing facilities, as defined in subdivision (c) of Section 1250, intermediate care facilities, as defined in subdivision (d) of Section 1250, and nursing facilities, as defined in subdivision (k) of Section 1250, shall use a standard admission agreement developed and adopted by the department. This standard agreement shall comply with all applicable state and federal laws.

(b) ~~(1)~~ *Any standard admission agreement developed and adopted by the department, pursuant to subdivision (a), or any admission agreement in effect at a skilled nursing facility, intermediate care facility, or nursing facility, shall include a statement informing the person being admitted whether or not the facility is currently covered by liability insurance. This subdivision is not intended to change existing statutory or regulatory requirements or to create a new cause of action, pursuant to subdivision (h).*

(c) (1) No facility shall alter the standard agreement unless so directed by the department.

(2) The department may develop an abbreviated admission agreement for patients whose length of stay is anticipated to be 14 days or less. This abbreviated agreement may be developed to coordinate with the standard admission agreement. If the patient's stay exceeds 14 days, the nursing facility shall obtain agreement to the remainder of the standard admission agreement.

(3) Nothing in this section shall prevent a skilled nursing facility, an intermediate care facility, or a nursing facility from distributing written explanations of facility-specific rules and procedures, provided that the written explanations are not included or incorporated in, or attached to the standard admission agreement, nor signed by the resident or his or her representative.

~~(c)~~

(d) Subdivisions (a) and (b) shall apply to all new admissions to skilled nursing facilities, intermediate care facilities, and nursing facilities that occur after December 31, 1999.

~~(d)~~

(e) By January 1, 2000, the department shall consolidate and develop one comprehensive Patients' Bill of Rights that includes the provisions contained in Chapter 3.9 (commencing with Section 1599), the regulatory resident rights for skilled nursing facilities under Section 72527 of Title 22 of the California Code of Regulations, the regulatory resident rights for intermediate care facilities under Section 73523 of Title 22 of the California Code of Regulations, and the rights afforded residents under Section 483.10 et seq. of Title 42 of the Code of Federal Regulations.

This comprehensive Patients' Bill of Rights shall be a mandatory attachment to all skilled nursing facility, intermediate care facility, and nursing facility contracts as specified in Section 1599.74 of this chapter.

~~(e)~~

(f) By January 1, 2000, the department shall ensure the translation of the Patients' Bill of Rights described in subdivision (d) into Spanish, Chinese, and other languages as needed to provide copies of the Patients' Bill of Rights to members of any ethnic group that represents at least 1 percent of the state's skilled nursing facility, intermediate care facility, and nursing facility population.

~~(f)~~

(g) Translated copies of the Patients' Bill of Rights shall be made available to all long-term health care facilities in the state, including skilled nursing facilities, intermediate care facilities, and nursing facilities. It shall be the responsibility of the long-term health care facilities to duplicate and distribute the translated versions of the Patients' Bill of Rights with admissions agreements, when appropriate.

~~(g)~~

(h) Nothing in this section is intended to change existing statutory or regulatory requirements governing the care provided to nursing facility residents. Similarly, nothing in this section is intended to create a new cause of action against a skilled nursing facility, an intermediate care facility, or a nursing facility as defined in Section 1250, related to its compliance with those existing statutory or regulatory requirements governing the care provided to nursing facility residents.

~~SECTION 1.~~

SEC. 2. Section 1599.64 of the Health and Safety Code is amended to read:

1599.64. (a) All abbreviated contracts of admission and contracts of admission shall be printed in black type of not less than 10-point type size, on plain white paper. The print shall appear on one side of the paper only.

(b) The contract shall be written in clear, coherent, and unambiguous language, using words with common and everyday meanings. It shall be appropriately divided, and each section captioned.

(c) An abbreviated contract of admission shall include a statement indicating that respite care services, as defined in Section 1418.1, provided by the skilled nursing facility or intermediate care facility is not a Medi-Cal covered service and can only be provided by the facility on a private-pay or third-party payor basis, unless the person is participating in a Medicaid waiver program pursuant to Section 1396n of Title 42 of the United States Code, or other respite care service already covered by the Medi-Cal program.

(d) An abbreviated contract of admission shall specify the discharge date agreed to upon admission by the skilled nursing facility or intermediate care facility and the person being admitted or his or her representative. This discharge date shall be binding as a ground for discharge in addition to any other ground for discharge pursuant to federal or state law and regulations.

(e) An abbreviated contract of admission shall include a statement informing the person being admitted for respite care services that the contract is designed specifically for the provision of respite care services and cannot be used for any other type of admission to the facility.

(f) An abbreviated contract of admission shall include a statement informing the person being admitted whether or not the facility is currently covered by liability insurance. *This subdivision is not intended to change existing statutory or regulatory requirements governing the care provided to nursing facility residents. Nothing in this subdivision is intended to create a new cause of action against a skilled nursing facility, intermediate care facility, or a nursing facility, as defined in Section 1250, related to its compliance with those existing*

statutory or regulatory requirements governing the care provided to nursing facility residents.

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