

Assembly Bill No. 1397

CHAPTER 545

An act to amend Section 1417.2 of the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor October 12, 2007. Filed with Secretary of State October 12, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, Soto. Long-term health care facilities.

Existing law provides for the licensure of long-term health care facilities by the State Department of Public Health. Under existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, the department may assess penalties for violation of prescribed requirements. Moneys collected as a result of the penalties imposed pursuant to these provisions are required to be deposited into the Health Facilities Citation Penalties Account, and used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, including reimbursing residents for personal funds lost and costs associated with informational meetings.

This bill would specify that the account includes moneys collected as a result of penalties imposed both under the act and under federal law. The bill would require that these moneys be deposited into 2 separate accounts, the State Health Facilities Citation Penalties Account, for violations of state law, and the Federal Health Facilities Citation Penalties Account, for violations of federal law, the moneys in which would be used by the department, upon appropriation by the Legislature, for the purposes specified in existing law.

The bill would require the department to post on its Web site prescribed information about the funds in those accounts and, with respect to moneys in the Federal Health Facilities Citation Penalties Account, prescribed quality of care purposes.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Congress passed the Nursing Home Reform Act, which allowed the government to issue sanctions against nursing homes that failed to comply with federal Medicare and Medicaid quality of care requirements.

(b) Civil money penalties are one type of sanction established by the federal government to encourage nursing homes to comply with federal requirements and to prevent poor quality of care.

(c) The federal government contracts with state licensing and certification to inspect nursing homes and to issue civil money penalties for violations of federal conditions of participation.

(d) Moneys collected as a result of civil penalties imposed as a result of violations of federal and state statutes should be deposited into two separate accounts that are established in the Special Deposit Fund pursuant to Section 16370 of the Government Code.

(e) These civil money penalties offer an opportunity to make the lives of nursing home residents better by providing additional resources to the state to improve the quality of care and quality of life for residents.

(f) In 2002, the federal Centers for Medicare and Medicaid Services provided guidance to ensure that states use civil money penalty funds in accordance with federal law while allowing flexibility in the use of the funds.

(g) The written guidance to states allows civil money penalty funds to be used to prevent continued noncompliance by nursing facilities through educational or other means and to authorize the use of the moneys for any project that directly benefits facility residents.

SEC. 2. Section 1417.2 of the Health and Safety Code is amended to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of state and federal civil penalties imposed under this chapter or federal law shall be deposited into accounts that are hereby established in the Special Deposit Fund created pursuant to Section 16370 of the Government Code. These accounts are titled the State Health Facilities Citation Penalties Account, into which moneys derived from civil penalties for violations of state law shall be deposited, and the Federal Health Facilities Citation Penalties Account, into which moneys derived from civil penalties for violations of federal law shall be deposited. Moneys from these accounts shall be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

(4) The costs associated with informational meetings required under Section 1327.2.

(b) Notwithstanding subdivision (a), the balance in the State Health Facilities Citation Penalties Account shall not, at any time, exceed ten million dollars (\$10,000,000).

(c) Moneys from the Federal Health Facilities Citation Penalties Account, in the amount not to exceed one hundred thirty thousand dollars (\$130,000), may also be used, notwithstanding Section 16370 of the Government Code, upon appropriation by the Legislature, in accordance with state and federal law for the improvement of quality of care and quality of life for long-term health care facilities residents pursuant to Section 1417.3.

(d) The department shall post on its Web site, and shall update on a quarterly basis, all of the following regarding the funds in the State Health Facilities Citations Penalties Account and the Federal Health Facilities Citations Penalties Account:

- (1) The specific sources of funds deposited into the account.
- (2) The amount of funds in the account that have not been allocated.
- (3) A detailed description of how funds in the account have been allocated and expended, including, but not limited to, the names of any persons or entities that received the funds, the amount of any salaries paid to temporary managers, and a description of any equipment purchased with the funds. However, the description shall not include the name of any residents.