

Assembly Bill No. 398

Passed the Assembly September 11, 2007

Chief Clerk of the Assembly

Passed the Senate September 10, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1422.5 and 1422.6 of, and to add Section 1422.8 to, the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 398, Feuer. Long-term health care facilities: information.

(1) Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, provides for the regulation of long-term health care facilities by the State Department of Public Health. It is a misdemeanor to engage in specified activities related to the enforcement of these provisions. Existing law requires the department to implement a consumer information service system regarding long-term health care facilities. Existing law requires each skilled nursing facility and intermediate care facility to post specified information about the office of the state Long-Term Care Ombudsman.

This bill would require the department to establish, by, July 1, 2009, and maintain the consumer information system and would revise the information the system is required to contain. This bill would also require each skilled nursing facility and intermediate care facility, by July 1, 2009, to also post the profile that is included within the system. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) The bill would provide that its provisions shall be implemented only if funding is made available by the Legislature.

(3) 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. It is the intent of the Legislature that the State Department of Public Health collaborate with existing consumer

information service systems to the extent that these systems are consistent with the amendments to Section 1422.5 of the Health and Safety Code made by Assembly Bill 398 during the 2007–08 Regular Session.

SEC. 2. Section 1422.5 of the Health and Safety Code is amended to read:

1422.5. (a) The department shall establish by July 1, 2009, and maintain a consumer information service system to provide updated and accurate information to the general public and consumers regarding long-term health care facilities in their communities. The consumer information service system shall include, but need not be limited to, all of the following elements:

(1) An online inquiry system accessible through a statewide toll-free telephone number and the Internet.

(2) A profile for each long-term health care facility. The profile for each facility shall include, but not be limited to, all of the following:

(A) The name, address, and telephone number of the facility.

(B) The number of units or beds in the facility.

(C) The types of payment accepted by the facility, including whether the facility accepts Medicare or Medi-Cal patients.

(D) Whether the facility has a special care unit or program for people with Alzheimer’s disease and other dementias, and whether the facility participates in the voluntary disclosure program for special care units.

(E) Whether the facility is a for-profit or not-for-profit provider.

(F) The name of the administrator of the facility.

(G) The type of long-term care facility by licensure category, as described in Section 1418, including a description of any specialty services, including subacute care or special treatment programs, as described in subdivision (b) of Section 1276.9.

(H) If the long term health care facility is a skilled nursing facility, whether it is freestanding or hospital-based.

(I) A link to the facility’s Internet Web site as well as to any resident and family satisfaction survey information paid for by the facility. The link shall include a disclaimer that neither the department nor the state have endorsed or verified any of the information contained on the linked Internet Web site.

(3) Information regarding substantiated complaints, including, but not limited to, the action taken and the date of action.

(4) Information regarding the state citations assessed, including, but not limited to, the status of the state citation, including the facility's plan of correction, and information as to whether an appeal has been filed.

(5) Any appeal resolution pertaining to a citation or complaint, which shall be updated on the file in a timely manner.

(6) A categorical representation of the percentile ranking of the facility compared to all other comparable facilities in regard to staffing, based upon the number of nursing staff, expressed in hours per resident day and categorized by registered nurses, licensed vocational nurses, nursing assistants, other applicable direct care classifications, and total nursing staff, the annual rate of nursing staff turnover, and the mean nursing staff wages. The profile shall also provide the statistics for the particular facility that were used to create the ranking. The profile shall also describe any state or federal minimum standards applicable to this subject area. The profile shall also describe whether the facility is in compliance with the applicable state or federal minimum standards.

(7) A categorical representation of the percentile ranking of the facility compared to all other comparable facilities in regard to deficiencies and complaints, based upon the number of federal deficiencies and state deficiencies received by the facility during the three most recent inspections, and the number of complaints filed against the facility that have been investigated and substantiated by the department. The profile shall also provide the statistics for the particular facility that were used to create the ranking. The profile shall also describe any state or federal minimum standards applicable to this subject area. The profile shall also describe whether the facility is in compliance with the applicable state or federal minimum standards.

(8) A categorical representation of the percentile ranking of the facility compared to all other comparable facilities in regard to the quality of care provided, based upon the amount that the facility spends on resident care per resident per day, and an evaluation of the quality of life of the residents based upon quality of care factors including weight loss, incidence of urinary tract infections, and the incidence of pressure sores. The profile shall also provide the statistics for the particular facility that were used to create the ranking. The profile shall also describe any state or federal minimum standards applicable to this subject area. The profile

shall also describe whether the facility is in compliance with the applicable state or federal minimum standards. The profile shall include a disclaimer, where applicable, that the quality of care information has not been adjusted to reflect the differences in severity of illness of the facility patient populations and specialty care.

(9) A categorical representation of the percentile ranking of the facility compared to all other comparable facilities in regard to the financial status of the facility, based upon net operating income, net income margin, whether the owners of the facility have ever filed for bankruptcy, and whether there has been a substantial change in ownership within the prior five years. The profile shall also provide the statistics for the particular facility that were used to create the ranking. The profile shall also describe any state or federal minimum standards applicable to this subject area. The profile shall also describe whether the facility is in compliance with the applicable state or federal minimum standards.

(b) It is the intent of the Legislature that the department, in developing and establishing the system pursuant to subdivision (a), maximize the use of available federal funds.

(c) In implementing this section, the department shall ensure the confidentiality of personal and identifying information of residents and employees and shall not disclose this information through the consumer information service system developed pursuant to this section.

(d) (1) For the purposes of this section, “categorical representation” means a descriptive word or phrase or other description, such as “excellent,” “very good,” “average,” “fair,” or “poor,” that represents a range of percentile ranking, such as a quintile or decile.

(2) For the purposes of implementing this section, “comparable facilities” means all long-term health care facilities licensed within the same category, as described in Section 1418.

(e) For the purposes of implementing this section, the department shall not require the reporting of additional information, unless otherwise specified in state and federal law.

SEC. 3. Section 1422.6 of the Health and Safety Code is amended to read:

1422.6. Each skilled nursing facility and intermediate care facility shall post a copy of the notice required pursuant to Section

9718 of the Welfare and Institutions Code and, by July 1, 2009, post a copy of the profile created pursuant to Section 1422.5 in a conspicuous location in at least four areas of the facility, as follows:

- (a) One location that is accessible to members of the public.
- (b) One location that is used for employee breaks.
- (c) One location that is next to a telephone designated for resident use.
- (d) One location that is used for communal functions for residents, such as for dining or resident council meetings and activities.

SEC. 4. Section 1422.8 is added to the Health and Safety Code, to read:

1422.8. The information regarding substantiated complaints that is included in the consumer information service system pursuant to paragraph (3) of subdivision (a) of Section 1422.5 shall, by July 1, 2009, be categorized on the basis of complaints reported by a member of the public or self-reported by the facility.

SEC. 5. 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.

SEC. 6. This act shall only be implemented if funding is made available to establish and maintain the consumer information service system, as provided in Sections 1422.5, 1422.6, and 1422.8 of the Health and Safety Code, upon appropriation by the Legislature, in the Budget Act or other statute.

Approved _____, 2007

Governor