

Date of Hearing: April 13, 2021

ASSEMBLY COMMITTEE ON HEALTH

Jim Wood, Chair

AB 1585 (Committee on Health) – As Amended April 5, 2021

SUBJECT: Health care.

SUMMARY: Expands the current definition of an infection preventionist (IP) employed by a skilled nursing facility (SNF) to include persons who have professional training as a licensed nurse, medical technologist, microbiologist, epidemiologist, public health professional, or other health care related field, and have completed specialized training in infection prevention and control. Extends the due date, from July 1, 2020 to January 1, 2022, by which the Department of Health Care Services (DHCS) is required to adopt regulations related to the California Children's Services (CCS) Whole Child Model (WCM) in accordance with the rulemaking requirements of the Administrative Procedure Act (APA).

EXISTING LAW:

- 1) Establishes the Department of Public Health (DPH) which licenses and regulates health facilities, including long-term care (LTC) facilities such as SNFs, intermediate care facilities, and congregate living health facilities.
- 2) Defines a "SNF" as a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.
- 3) Requires DPH to establish a list of reportable diseases and conditions to be properly reported as required to DPH by local health officers (LHOs). Requires DPH to specify the timeliness requirements related to the reporting of each disease and condition, and the mechanisms required for, and the content to be included in, reports made. Permits the list to include both communicable and non-communicable diseases. Permits the list to be modified at any time by DPH, after consultation with the California Conference of Local Health Officers.
- 4) Requires, through regulation, every health care provider, knowing of or in attendance on a case or suspected case of any reportable diseases or conditions, to report to the LHO for the jurisdiction where the patient resides. Permits any individual having knowledge of a person who is suspected to be suffering from one of the diseases to make such a report to the LHO for the jurisdiction where the patient resides when there is no health care provider in attendance. Defines "health care provider" as a physician and surgeon, a veterinarian, a podiatrist, a nurse practitioner, a physician assistant, a registered nurse, a nurse midwife, a school nurse, an infection control practitioner, a medical examiner, a coroner, or a dentist.
- 5) Requires a SNF to have a full-time, dedicated IP, and permits this role to be filled either by one full-time IP staff member or by two staff members sharing the IP responsibilities, as long as the total time dedicated to the IP role equals at least the time of one full-time staff member.

- 6) Requires the IP to be a registered nurse or a licensed vocational nurse and to not be included in the calculation of three and one-half hours of direct patient care per day provided to SNF residents.
- 7) Requires a SNF to have a plan in place for infection prevention quality control, and requires a SNF to ensure all health care personnel receive infection prevention and control training on an annual basis.
- 8) Requires a SNF, in the event of a declared emergency related to a communicable disease, to report each disease-related death and suspected disease-related death to DPH within 24 hours. Requires DPH to make the total number of disease-related deaths and suspected disease-related deaths, and the location at which they occurred, available on its internet website on a weekly basis, in a manner that protects patients' medical privacy.
- 9) Establishes the Medi-Cal Program, administered by DHCS, which provides comprehensive health benefits to low-income children up to 266% of the federal poverty level.
- 10) Establishes the CCS Program to provide specified medical care and therapy services to children with eligible conditions.
- 11) Authorizes DHCS to establish, no sooner than July 1, 2017, a WCM program, under which county organized health system plans (COHS are a form of Medi-Cal managed care [MCMC] plan) in designated counties provide CCS program services to Medi-Cal-eligible CCS children and youth, instead of the existing "carve out" arrangement whereby CCS services are provided outside of the MCMC plan.
- 12) Requires DHCS to adopt regulations related to the CCS WCM in accordance with the rulemaking provisions of the APA by July 1, 2020.

FISCAL EFFECT: Unknown. This bill has not yet been analyzed by a fiscal committee.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the Health Committee, this bill is intended to clarify language from AB 2644 (Wood), Chapter 287, Statutes of 2020. The authors note that the current definition of an IP only applies to those working in SNFs, however, the language would inadvertently prevent some IPs currently employed by hospitals or other health facilities from seeking employment in a SNF, for example a person with a Master's degree in Public Health who is also a trained IP. In addition, this bill contains a provisions from the DHCS-proposed trailer bill language (TBL) extending a past due date by which regulations have to be adopted for the CCS WCM for the purpose of reducing the volume of proposed TBL that is part of DHCS' proposed California Advancing and Innovating Medi-Cal (CalAIM) initiative.

2) BACKGROUND.

- a) **COVID-19 reporting in SNFs.** Due to the severity of the COVID-19 crisis, on March 4, 2020, Governor Newsom issued an Executive Order declaring a state of emergency and on March 19, 2020, issued a stay at home order. On May 8, 2020, the Centers for

Medicare and Medicaid (CMS) published an interim final rule requiring SNFs to report COVID-19 facility data to the Centers for Disease Control and Prevention (CDC), and, to notify residents, residents' representatives, and families of residents of when there are COVID-19 positive residents or healthcare workers in the facility. According to the DPH website, as of April 2, 2021, in California's 1,223 SNFs there have been 61,209 positive cases in SNF residents and 9,031 SNF resident deaths. There have been 50,431 positive cases in health care workers (HCWs) and 225 HCW deaths.

b) Federal IP requirements and training. CMS requires LTC facilities, including SNFs, as a condition of participation, to have an infection prevention and control program designed to prevent the development and transmission of communicable diseases and infections. The infection prevention and control program is required to include specific elements, including a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services. Effective November 28, 2019, the final requirement includes specialized training in infection prevention and control for the individual(s) responsible for the facility's program. CMS and the CDC collaborated on the development of a free on-line training course in infection prevention and control for nursing home staff, called the "Nursing Home Infection Preventionist Training Course." The course is approximately 19 hours long, and is comprised of 23 modules and submodules, which can be completed at any time, in any order, and over multiple sessions.

3) CCS "CARVE OUT" AND WCM. The CCS program provides diagnostic and treatment services, medical case management, and physical and occupational therapy health care services to children under 21 years of age with CCS-eligible conditions (e.g., severe genetic diseases, chronic medical conditions, infectious diseases producing major sequelae, and traumatic injuries) from families unable to afford catastrophic health care costs. Most Medi-Cal beneficiaries, including children, are required to enroll in MCMC plans. However, for children who are enrolled in both Medi-Cal and CCS, CCS services were initially carved out of MCMC care pursuant to SB 1371 (Bergeson), Chapter 917, Statutes of 1994. Under the carve out, CCS-covered services for CCS-eligible children are not incorporated into MCMC, and are instead provided and paid for on a fee-for-service basis through the CCS Program. The CCS carve out has been extended repeatedly since then, usually for three or four year periods.

In 2015, as part of the debate over a CCS carve out extension, the Brown Administration indicated it wanted some portion of CCS-eligible children shifted to one organized entity. SB 586 (Hernandez), Chapter 625, Statutes of 2015, authorized the WCM for children enrolled in both CCS and Medi-Cal in 21 counties served by four COHS where both Medi-Cal and most CCS services would be covered and paid for by the plan, instead of the existing arrangement in most counties where CCS services are "carved out" from the MCMC plan. SB 586 also contained the regulation requirement with the July 1, 2020 due date for adoption. The Administration's CalAIM proposed TBL contains the proposed regulation due date change. Because CalAIM TBL contains over 91 pages of a variety of complex and substantive changes, this straight-forward date change is being included in a committee bill.

3) SUPPORT. The California Association for Professionals in Infection Control & Epidemiology (APIC) supports this bill and states that would bring current law in line with

APIC, the CDC, and the Certification Board for Infection Control & Epidemiology qualifications for infection preventionists.

- 4) PREVIOUS LEGISLATION.** AB 2644 (Wood), Chapter 287, Statutes of 2020, requires a SNF, in the event of a declared emergency related to a communicable disease, to report each disease related death to DPH within 24 hours; requires DPH to make the total number of disease related deaths reported, and the location at which they occurred, available on its internet website on a weekly basis; and, requires DPH to disclose the information in a manner that protects patients' privacy. Authorizes DPH to require SNFs to report additional disease related information; require SNFs to notify residents and their representatives and family members about cases of the disease; and, require SNFs to have a full-time, dedicated IP.

REGISTERED SUPPORT / OPPOSITION:

Support

The California Association for Professionals in Infection Control & Epidemiology

Opposition

None on file.

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