

CONCURRENCE IN SENATE AMENDMENTS

AB 2538 (Macedo)

As Amended June 29, 2026

Majority vote

SUMMARY

Codifies current Department of Health Care Services (DHCS) requirements related to online forms to notify DHCS when a Medi-Cal fee-for-service member elects to receive hospice services.

Senate Amendments

Clarify the bill's provisions do not limit DHCS's authority to implement any additional fraud-prevention measures as authorized or required by state or federal law, and add coauthors.

COMMENTS

Hospice. As explained by the State Auditor in a seminal audit requested by the Joint Legislative Audit Committee in 2021, "The State's Weak Oversight of Hospice Agencies Has Created Opportunities for Large-Scale Fraud and Abuse," hospice is a specialized form of interdisciplinary health care primarily designed to provide palliative care and alleviate the physical, emotional, social, and spiritual discomforts of a person who is experiencing the last phases of life because of a terminal disease. Palliative care optimizes the quality of life of a patient with a terminal illness by anticipating, preventing, and treating suffering. Hospice care treats pain and other symptoms associated with a terminal disease, rather than attempting to cure the disease when a cure is no longer possible or when the burdens of curative treatment outweigh the benefits. Individuals who receive hospice care are commonly facing terminal cancer, heart disease, or neurological diagnoses, such as Alzheimer's disease. Hospice patients rely heavily on caregivers and are one of the state's most vulnerable populations.

Although care for the seriously ill and dying has a long history, the modern concept of hospice was introduced to the United States in the 1970s and the federal Medicare program started covering hospice services as a benefit in the 1980s. Medi-Cal coverage mirrors the Medicare hospice benefit. Any Medi-Cal recipient certified by a physician as having a life expectancy of six months or less can elect to receive hospice care in lieu of normal Medi-Cal coverage for services related to the terminal condition. To begin hospice care, a patient or their representative must file an election statement with a hospice provider. This statement acknowledges that the patient understands that the hospice care relating to the illness is intended to alleviate pain and suffering rather than to cure the illness, and that certain Medi-Cal benefits are waived by the election of hospice.

State Audit, Fraud, and Recent State Activity. In December of 2020, *The Los Angeles Times* published a lengthy investigative series on the hospice industry, focused on the rapid growth in the number of agencies in southern California. In March 2022, the California State Auditor released the audit report mentioned above, which noted that over the prior 10 years, the number of hospice agencies in Los Angeles County had outpaced the need for hospice services. The report found numerous indicators to suggest that many of these hospice agencies had been created to fraudulently bill Medicare and Medi-Cal for services rendered to ineligible patients, or services not provided at all. The report also found that the Department of Public Health (DPH), the agency primarily responsible for the licensing and oversight of hospice agencies, had failed

to take adequate action in the face of widespread problems. The report also found that DHCS and the California Department of Justice (DOJ) had not sufficiently coordinated their efforts with DPH. Since the audit, there has been significant legislative, administrative, and enforcement activity, including:

- 1) Numerous bills were passed, including AB 2673 (Irwin), Chapter 797, Statutes of 2022, which enacted many of the reforms suggested by the Auditor;
- 2) A moratorium on new hospice licensees was put into place in 2021, which remains in place;
- 3) Over 280 hospice licenses have been revoked over the past two years, an additional 300 providers are under investigation, and 109 individuals have been charged with hospice-related offenses;
- 4) The state created a multi-agency Hospice Fraud Task Force coordinated by DPH that includes representation from the California Health & Human Services Agency, DHCS, Department of Social Services, and DOJ;
- 5) DHCS has updated its hospice claims systems and managed care requirements to block any hospice payments unless a valid provider/enrollee authorization form is verified, ensuring members have elected hospice care and preventing unauthorized billing;
- 6) DHCS is strengthening utilization management for hospice care, including prior authorization requirements; and,
- 7) DPH is in the process of adopting emergency regulations that will lead to permanent regulations that increase DPH's ongoing fraud and oversight protection efforts. DPH submitted then withdrew emergency regulations in December 2025.

Fallout from bad actors in the hospice industry continues to reverberate. As recently as this month, on April 9, 2026, California Attorney General Rob Bonta and DHCS announced charges filed against 21 suspects and the dismantling of a major hospice fraud scheme that defrauded California of \$267 million. According to the DOJ, the operation resulted in the arrests of five people after ten different locations were searched in southern California.

DHCS Forms Related to Hospice Election. DHCS maintains two forms related to hospice election: the DHCS 8052 Notice of Election (NOE) form and the recently released Online Medi-Cal Hospice Program Attestation Form. According to DHCS, the two forms serve different but related purposes in the Medi-Cal hospice election process:

- 1) *DHCS 8052 – Hospice Notice of Election (NOE) Form.* This form documents the Medi-Cal fee-for-service member's election of hospice services and captures their informed consent and original signature, or that of their legal guardian/authorized representative. It must be completed by qualified hospice personnel after counseling the member and must be retained in the member's medical record. It is not submitted to DHCS, but must be available upon DHCS request or during state/federal audits.
- 2) *Medi-Cal Hospice Program Attestation Form.* This form serves as the official notification to DHCS that the member has elected hospice services. It must be completed online by the hospice provider within five calendar days of the election date. The provider must attest that

all requirements were met, including obtaining informed consent using the DHCS 8052 form. This form is required starting March 2026; DHCS notes that emailed and paper submissions will no longer be accepted.

This bill codifies the above requirements related to the submission of the Attestation Form and the Hospice Notice of Election form that documents the patient's consent.

According to the Author

This bill helps protect some of the most vulnerable Medi-Cal patients by codifying a commonsense accountability measure already being used by DHCS. The author indicates clear statutory direction is warranted regarding how hospice elections are documented, when the form must be submitted, and how that attestation relates to counseling and informed consent.

Arguments in Support

The California Baptist Capitol Ministry writes in support that this bill ensures proper documentation requirements are applied and reflects a commitment to caring for the vulnerable.

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM HEALTH: 16-0-0

YES: Bonta, Chen, Addis, Aguiar-Curry, Ahrens, Caloza, Carrillo, Mark González, Johnson, Patel, Patterson, Rogers, Sanchez, Schiavo, Sharp-Collins, Stefani

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ABS, ABST OR NV: Arambula

ASSEMBLY FLOOR: 77-0-3

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Arambula, Flora, Celeste Rodriguez

SENATE FLOOR: 40-0-0

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

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