

AB 950 -Proposal to Establish A New Hospice Facility License Category in California

Testimony by Charlene Harrington, Ph.D., RN, Professor Emeritus, University of California San Francisco, July 22, 2010

I would like to oppose establishing a new in-patient hospice facility license category for California for a number of reasons.

California already has an adequate supply of hospice programs. California currently has 319 licensed hospices programs in the state. Of those programs, 33 are hospices in a distinct part or certified part of in-patient hospitals, 26 are home health based, 11 have other affiliations, 174 are freestanding, and 75 do not have the affiliation reported.¹ In addition, there are 8 hospices licensed as congregate living health facilities and 1,630 residential care facilities have hospice programs.¹ There are also volunteer hospices not licensed in the state. Hospice programs can provide services in skilled nursing homes, residential care facilities, at home and in other living situations.

California has an increasing number of hospice programs and large capacity to expand existing hospice services. The number of certified hospices increased from 167 in 2003 serving about 63,000 individuals to 212 hospices providing services about 85,000 individuals in 2007 (a 27 percent increase in facilities and a 34 percent increase in individuals served.^{2,3} About 30 percent of hospice patients are living in long term care facilities.³

Adding new hospice facilities will not increase access to services. According to an analysis by the Medicare Prospective Payment Commission (2010), the supply of hospices is not associated with the use of hospice services in the population, showing that expanding supply does not necessarily increase access to services.⁴ Hospices can add personnel to expand services and do need to add facilities.

There is no need for a new facility type because hospice services can currently be provided in any setting under existing regulations. New facilities can be built and licensed using existing facility regulations for acute, skilled nursing, congregate living or residential care facilities.

California already has an excess of nursing home beds and probably has an excess of residential care beds. In 2008, the state had 1,276 nursing home facilities with 123,000 beds, with only an 86 percent occupancy rate.⁵ Therefore, extra capacity is available for hospice units within nursing homes. Moreover, new hospice facilities can be established under the congregate living health facilities license.

California has 7,740 residential care facilities for the elderly and 19 residential care facilities for the chronically ill.⁶ Hospice units can be added to existing residential care facilities or new ones can be opened under the residential care facility licensing categories to make use of existing capacity.

New hospice facilities will be costly to build and will require new state administrative resources at a time of budget crises. It will require **new building requirements including fire, life safety and seismic safety standards.** What would those standards be? Establishing new standards would be administratively costly for the state and there are no guidelines for what these should be for the new facility.

New hospice facilities would require extensive new state administrative efforts to establish regulations for quality and staffing standards. What would those standards be? How would facility assure adequate staffing requirements? There is no reason hospices cannot meet regulatory standards using existing facility categories.

New hospice facilities would also require new licensing and certification resources for annual and complaint inspections. According to CMS guidelines, hospices must be surveyed every 6.5 years and it is not clear that the

California Licensing and Certification program is even meeting this standard. Hospices with accreditation (109 programs) are surveyed every 3 years by the accrediting body but these surveys are not very useful. Hospice program inspections have decreased because of the lack of federal and state regulatory funds. A new hospice facility license would create even greater demands on limited state survey resources.

Some existing hospice programs have quality problems and current licensing and certification oversight is inadequate. More resources would be needed for new hospice facilities. The average hospice in CA received 2.6 deficiencies and this has increased by 79 percent since 2003.¹ There are currently no fines for violations and no standards for complaint investigations. Considering how vulnerable hospice residents are, the current hospice programs are **NOT** surveyed frequently enough and need more oversight. The California State Auditor has found that CA's Licensing and Certification program is currently not meeting its current federal oversight responsibility and new requirements would make the situation worse.⁷

The oversight of residential care by the Department of Social Services is also inadequate because of lack of resources. It would be better to invest resources in improving the oversight of existing hospice programs.

New hospice facilities will be more costly than existing hospice programs. Medicare hospices are paid a rate for routine home care (\$143 per day), continuous home care (\$835 per day), inpatient respite services (\$148) and inpatient care (\$636 per day), subject to an overall aggregate per patient cap. More than 95 percent of paid hospice care is for routine care.^{8,9} **New hospice facilities are designed to capture the inpatient rates which are over 3 times as much as the routine hospice rates.**

New hospice facilities will increase the costs to Medicare and Medicaid at a time of fiscal crises. Medicare pays for 78 percent of hospice services, Medicaid pays for 7 percent while 14 percent is paid by private insurance companies and individuals paying out of pocket in California. About 40 percent of hospice patients are dully eligible individuals.^{4,8} Thus, adding expensive new facilities will increase the cost to government.

New hospice facilities will result in higher profits for those programs because they can charge higher rates. Nationally, a majority of hospices are for-profit and they are growing at the fastest rate (90 percent since 2000).³ In California, 68 percent of hospices are for-profit.¹ The median profit margin for for-profit agencies was 10.5 percent but only 2 percent for non-profit providers in 2007.⁴

Overall, the arguments in favor of new hospice facility licenses do not outweigh the arguments against this proposal.

References

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