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## Health Care & Wellness Committee

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### HB 2426

**Brief Description:** Protecting patient safety in psychiatric hospitals and other health care facilities.

**Sponsors:** Representatives Cody, Robinson, Kilduff, Tharinger, Davis, Macri, Riccelli and Pollet; by request of Department of Health.

#### Brief Summary of Bill

- Establishes a provisional license with additional oversight requirements for certain psychiatric hospitals.
- Establishes penalties for psychiatric hospitals that fail or refuse to comply with state licensing standards.
- Requires psychiatric hospitals to report deaths and patient elopements that occur on their grounds.

**Hearing Date:** 1/24/20

**Staff:** Chris Blake (786-7392).

#### **Background:**

##### Licensing of Private Establishments.

The Department of Health (Department) regulates "establishments" which are places receiving or caring for persons with mental illness or substance use disorder. To become licensed to operate an establishment, a person must receive a certificate of need for the project, obtain approval of facility plans under the construction review process, obtain approval from the State Director of Fire Protection, and successfully complete a Department survey of the facility. Establishments must operate in compliance with Department regulations regarding clinical facilities, patient care services, staffing, patient safety, clinical records, and pharmacy and medication services.

The Department may conduct inspections at any time to determine compliance with establishment standards. The Department may issue a statement of deficiencies if it finds that

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the establishment is not in compliance with operating standards. The failure to correct the deficiencies may result in the denial, suspension, modification, or revocation of the establishment license.

#### Sanctions for Health Care Facilities.

The Department licenses several types of health care facilities, including hospitals, establishments, and ambulatory surgical facilities. In the event that an inspection or survey identifies noncompliance with health care facility standards, the Department may require the facility to submit a plan of correction to address each of the deficiencies. For these facilities, the Department has the established authority to deny, suspend, revoke, or modify a license or provisional license. In the case of ambulatory surgical facilities, the Department may assess civil monetary penalties up to \$1,000 per violation. In addition, the operation of an establishment without a license may result in imprisonment and a fine of up to \$1,000.

#### Incident Reporting by Hospitals.

Certain types of health care facilities, including establishments, must report adverse health events to the Department. Under the reporting system, an initial notification must be filed with the Department within 48 hours of confirmation of the adverse event. Full reports must be submitted within 45 days of confirmation. Adverse health events include the 29 serious reportable events identified by the National Quality Forum in 2011. These are categorized among surgical or invasive procedure events, product or device events, patient protection events, care management events, environmental events, radiologic events, and potential criminal events.

#### **Summary of Bill:**

##### Provisionally Licensed Psychiatric Hospitals.

A provisional license issued by the Department of Health (Department) is established for psychiatric hospitals that are either new psychiatric hospitals or existing psychiatric hospitals that change ownership after July 1, 2020. The provisional license is effective for 24 months and is not renewable. During the provisional licensing period, the Department must provide enhanced oversight through inspections and technical assistance. A provisionally licensed psychiatric hospital may apply for a full license 60 days before the provisional license expires if it has been substantially compliant with Department rules for at least three inspections. The Department must establish a provisional license fee.

"Psychiatric hospitals" are defined as a hospital caring for any person with mental illness or substance use disorder. The term does not include acute care hospitals, state psychiatric hospitals, or residential treatment facilities.

##### Enforcement of Health Care Facility Licensing Standards.

If a licensed or provisionally licensed psychiatric hospital fails or refuses to comply with state licensing standards, the Department may take one or more of several actions. The Department may:

- refuse to issue a license;
- impose reasonable conditions on a license;
- impose civil fines of at least \$10,000 per violation, up to \$1 million;
- impose civil fines of up to \$10,000 for each day that a person operates a psychiatric hospital without a license;

- suspend, revoke, or refuse to renew a license;
- suspend new admissions to the facility by immediately issuing a stop placement order; or
- suspend the admission of a specific category or categories of patients by imposing a limited stop placement order.

Civil fines collected by the Department may only be used to provide technical assistance to psychiatric hospitals and to offset the cost of psychiatric hospital licensing activities. If the Department issues a stop placement order or limited stop placement order, it must conduct a follow-up inspection within 15 business days of receiving written notice from the psychiatric hospital that describes how the violations that were the basis for the order have been corrected. The stop placement order or limited stop placement order must be terminated if the violations have been corrected and the psychiatric hospital is able to maintain the corrections. Procedures are established to allow the subject of an action to request an adjudicative proceeding.

Beginning with psychiatric hospitals, the Department must make health care facility inspection reports available to the public on the internet, to the extent that resources allow.

The Department is directed to evaluate the appropriate levels of oversight for the health care facilities that it regulates and identify opportunities to consolidate and standardize licensing and enforcement standards across facility types. The Department must work with stakeholders to create recommendations to develop a uniform health care facility enforcement act.

#### Elopement and Death Reporting by Psychiatric Hospitals.

Psychiatric hospitals must report to the Department any deaths and patient elopements that occur on their grounds. The report must be made within three days of the elopement or death. An "elopement" is defined as any situation in which a patient admitted to the psychiatric hospital is cognitively, physically, mentally, emotionally, or chemically impaired and leaves the psychiatric hospital unsupervised, unnoticed, and without the staff's knowledge prior to scheduled discharge.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2020.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.