

AMENDED IN SENATE SEPTEMBER 7, 2001

AMENDED IN SENATE AUGUST 20, 2001

AMENDED IN SENATE JULY 5, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY MAY 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1622

Introduced by Assembly Member Cardenas
(Coauthors: Assembly Members Cedillo, Firebaugh, Koretz,
Longville, Pavley, and Strom-Martin)
(Coauthors: Senators Alarcon and Kuehl)

February 23, 2001

~~An act to amend Sections 124900 and 124906 of the Health and Safety Code, relating to primary health care. An act to amend Section 4007 of the Business and Professions Code, relating to pharmacists.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1622, as amended, Cardenas. ~~Primary care clinics: payment rates~~ **Pharmacists.**

Existing law, the Pharmacy Law, provides for the licensing and regulation of pharmacists in this state by the California State Board of Pharmacy. Existing law provides that the board may adopt necessary rules and regulations regarding the dispensing of drugs.

This bill would provide that the board may not adopt any rule or regulation that would allow a pharmacist to dispense any drug unless

the pharmacist has reviewed the drug and checked the prescription for accuracy.

~~Existing law requires the reimbursement of selected primary care clinics for the delivery of medical services, including preventive health care and smoking prevention and cessation health education, to eligible beneficiaries whose income is under 200% of the federal poverty level. Existing law requires the State Department of Health Services, in the 2001–02 fiscal year, to allocate available funds, for a subsequent 3-year period, based on reported levels of uncompensated care utilizing data from an analysis prepared by the Office of Statewide Planning and Development. Existing law prohibits clinics from submitting updated data regarding the clinic’s levels of uncompensated care.~~

~~This bill would eliminate that prohibition, and would make various technical, nonsubstantive changes.~~

~~Existing law requires that payment for an outpatient visit be on a per visit basis at a rate that is determined by the department to be appropriate for an outpatient visit, but not less than \$71.50.~~

~~This bill would provide that if a clinic receives a funding award that is above its 2000–01 fiscal year funding award level, the amount of the award above its 2000–01 funding award level shall be eligible for a specified rate adjustment for dental visits.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes no*. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—The Legislature finds and declares all of the~~
- 2 ~~SECTION 1. Section 4007 of the Business and Professions~~
- 3 ~~Code is amended to read:~~
- 4 4007. (a) Nothing in Section 4005 shall be construed as
- 5 authorizing the board to adopt rules of professional conduct
- 6 relating to price fixing or advertising of commodities.
- 7 (b) Nothing in Section 4005 shall be construed as authorizing
- 8 the board to adopt any rule or regulation that would require that a
- 9 pharmacist personally perform any function for which the
- 10 education, experience, training, and specialized knowledge of a
- 11 pharmacist are not reasonably required. However, rules and
- 12 regulations may require that the function be performed only under
- 13 the effective supervision of a pharmacist who shall have the overall



1 responsibility for supervising all activities that take place in the
2 pharmacy.

3 *(c) Nothing in Section 4005 shall be construed as authorizing*
4 *the board to adopt any rule or regulation that would allow the*
5 *dispensing of drugs from a pharmacy unless a pharmacist has*
6 *reviewed the drug and checked the prescription as necessary.*

7 following:

8 ~~(a) According to “The State of Health Insurance in California,~~
9 ~~1999,” there were 7.3 million Californians that lacked health~~
10 ~~insurance coverage in 1999.~~

11 ~~(b) According to the Health Insurance Policy Programs at UC~~
12 ~~Berkeley and UCLA, two thirds of the 7.3 million uninsured are~~
13 ~~in low- and moderate-income working families with family~~
14 ~~incomes below 300 percent of the federal poverty level.~~

15 ~~(c) The number of individuals that lack dental coverage is still~~
16 ~~larger because dental insurance is less prevalent than medical~~
17 ~~insurance. Less than half the population is covered under dental~~
18 ~~insurance, most of which is employer based. More than 25 percent~~
19 ~~of California’s preschool and elementary school children and more~~
20 ~~than 40 percent of high school students have no dental insurance~~
21 ~~or Denti-Cal coverage.~~

22 ~~(d) Current government-sponsored health initiatives, such as~~
23 ~~the expansion of the Healthy Families Program to adults, will offer~~
24 ~~health coverage to approximately 300,000 adults, leaving~~
25 ~~approximately 7 million Californians still uninsured.~~

26 ~~(e) Community-based clinics and health centers are the major~~
27 ~~providers of primary health care for the uninsured and medically~~
28 ~~underserved who could not otherwise afford health services.~~

29 ~~(f) The Expanded Access to Primary Care Program ensures that~~
30 ~~community-based clinics and health centers have the resources to~~
31 ~~address the medical and dental care needs of the uninsured before~~
32 ~~more costly care becomes necessary.~~

33 ~~(g) The Expanded Access to Primary Care Program currently~~
34 ~~provides uninsured Californians with over 400,000 medical and~~
35 ~~dental visits; however, community-based clinics and health~~
36 ~~centers participating in this program provide over 1.7 million~~
37 ~~medical and dental visits to the uninsured.~~

38 ~~(h) Due to the lack of resources in the Expanded Access to~~
39 ~~Primary Care Program and rising costs of health care,~~
40 ~~community-based clinics only have the capacity to address the~~



1 health care needs of approximately 10 percent of California's 7.3
2 million uninsured individuals.

3 ~~SEC. 2. Section 124900 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 ~~124900. (a) (1) The State Department of Health Services~~
6 ~~shall select primary care clinics that are licensed under paragraph~~
7 ~~(1) or (2) of subdivision (a) of Section 1204, or are exempt from~~
8 ~~licensure under subdivision (c) of Section 1206, to be reimbursed~~
9 ~~for delivering medical services, including preventative health~~
10 ~~care, and smoking prevention and cessation health education, to~~
11 ~~program beneficiaries.~~

12 ~~(2) Except as provided for in paragraph (3), in order to be~~
13 ~~eligible to receive funds under this article a clinic shall meet all of~~
14 ~~the following conditions, at a minimum:~~

15 ~~(A) Provide medical diagnosis and treatment.~~

16 ~~(B) Provide medical support services of patients in all stages of~~
17 ~~illness.~~

18 ~~(C) Provide communication of information about diagnosis,~~
19 ~~treatment, prevention, and prognosis.~~

20 ~~(D) Provide maintenance of patients with chronic illness.~~

21 ~~(E) Provide prevention of disability and disease through~~
22 ~~detection, education, persuasion, and preventive treatment.~~

23 ~~(F) Meet one or both of the following conditions:~~

24 ~~(i) Are located in an area federally designated as a medically~~
25 ~~underserved area or medically underserved population.~~

26 ~~(ii) Are clinics that are able to demonstrate that at least 50~~
27 ~~percent of the patients served are persons with incomes at or below~~
28 ~~200 percent of the federal poverty level.~~

29 ~~(3) Notwithstanding the requirements of paragraph (2), all~~
30 ~~clinics that received funds under this article in the 1997-98 fiscal~~
31 ~~year shall continue to be eligible to receive funds under this article.~~

32 ~~(b) As a part of the award process for funding pursuant to this~~
33 ~~article, the department shall take into account the availability of~~
34 ~~primary care services in the various geographic areas of the state.~~
35 ~~The department shall determine which areas within the state have~~
36 ~~populations which have clear and compelling difficulty in~~
37 ~~obtaining access to primary care. The department shall consider~~
38 ~~proposals from new and existing eligible providers to extend clinic~~
39 ~~services to these populations.~~



1 ~~(c) Each primary care clinic applying for funds pursuant to this~~
2 ~~article shall demonstrate that the funds shall be used to expand~~
3 ~~medical services, including preventative health care, and smoking~~
4 ~~prevention and cessation health education, for program~~
5 ~~beneficiaries above the level of services provided in the 1988~~
6 ~~calendar year or in the year prior to the first year a clinic receives~~
7 ~~funds under this article if the clinic did not receive funds in the~~
8 ~~1989 calendar year.~~

9 ~~(d) (1) The department, in consultation with clinics funded~~
10 ~~under this article, shall develop a formula for allocation of funds~~
11 ~~available. It is the intent of the Legislature that the funds allocated~~
12 ~~pursuant to this article promote stability for those clinics~~
13 ~~participating in programs under this article as part of the state's~~
14 ~~health care safety net and at the same time be distributed in a~~
15 ~~manner that best promotes access to health care to uninsured~~
16 ~~populations.~~

17 ~~(2) The formula shall be based on both of the following:~~

18 ~~(A) A hold harmless for clinics funded in the 1997-98 fiscal~~
19 ~~year to continue to reimburse them for some portion of their~~
20 ~~uncompensated care.~~

21 ~~(B) Demonstrated unmet need by both new and existing clinics,~~
22 ~~as reflected in their levels of uncompensated care reported to the~~
23 ~~department. For purposes of this article, "uncompensated care"~~
24 ~~means clinic patient visits for persons with incomes at or below~~
25 ~~200 percent of the federal poverty level for which there is no~~
26 ~~encounter-based third party reimbursement which includes, but is~~
27 ~~not limited to, unpaid expanded access to primary care claims and~~
28 ~~other unreimbursed visits as verified by the department in~~
29 ~~accordance with paragraph (4).~~

30 ~~(3) In the 2001-02 fiscal year, and subsequent fiscal years, the~~
31 ~~department shall allocate available funds, for a three-year period,~~
32 ~~as follows:~~

33 ~~(A) Clinics that received funding in the prior fiscal year shall~~
34 ~~receive 90 percent of their prior fiscal year allocation, subject to~~
35 ~~available funds, provided that the funding award is substantiated~~
36 ~~by the clinics' reported levels of uncompensated care.~~

37 ~~(B) The remaining funds beyond 90 percent shall be awarded~~
38 ~~to new and existing applicants based on the clinic's reported levels~~
39 ~~of uncompensated care as verified by the department according to~~
40 ~~paragraph (4). The department shall seek input from stakeholders~~



1 to discuss any adjustments to award levels that the department
2 deems reasonable such as including base amounts for new
3 applicant clinics.

4 (C) New applicants shall be awarded funds pursuant to this
5 subdivision if they meet the minimum requirements for funding
6 under this article based on the clinics' reported levels of
7 uncompensated care as verified by the department according to
8 paragraph (4). New applicants include applicants for any new site
9 expansions by existing applicants.

10 (D) The department shall confer with clinic representatives to
11 develop a funding formula for the program implemented pursuant
12 to this paragraph to use for allocations for the 2004-05 fiscal year
13 and subsequent fiscal years.

14 (E) This paragraph shall become inoperative on July 1, 2004.

15 (4) (A) In assessing reported levels of uncompensated care,
16 the department shall utilize the most recent data available from the
17 Office of Statewide Health Planning and Development's
18 (OSHPD) completed analysis of the "Annual Report of Primary
19 Care Clinics."

20 (B) If the funds allocated to the program are less than the prior
21 year, the department shall allocate available funds to existing
22 program providers only.

23 (5) The department shall establish a base funding level, subject
24 to available funds, of no less than thirty-five thousand dollars
25 (\$35,000) for frontier clinics and Native American
26 reservation-based clinics. For purposes of this article, "frontier
27 clinics" means clinics located in a medical services study area with
28 a population of fewer than 11 persons per square mile.

29 (6) The department shall develop, in consultation with clinics
30 funded pursuant to this article, a formula for reallocation of unused
31 funds to other participating clinics to reimburse for
32 uncompensated care. The department shall allocate the unused
33 funds to other participating clinics to reimburse for
34 uncompensated care.

35 (e) In applying for funds, eligible clinics shall submit a single
36 application per clinic corporation. Applicants with multiple sites
37 shall apply for all eligible clinics, and shall report to the
38 department the allocation of funds among their corporate sites in
39 the prior year. A corporation may only claim reimbursement for
40 services provided at a program-eligible clinic site identified in the



1 corporate entity's application for funds, and approved for funding
2 by the department. A corporation may increase or decrease the
3 number of its program-eligible clinic sites on an annual basis, at
4 the time of the annual application update for the subsequent fiscal
5 years of any multiple-year application period.

6 ~~(f) Grant allocations pursuant to this article shall be based on
7 the formula developed by the department, notwithstanding a
8 merger of one of more licensed primary care clinics participating
9 in the program.~~

10 ~~(g) A clinic that is eligible for the program in every other
11 respect, but that provides dental services only, rather than the full
12 range of primary care medical services, shall only be eligible to
13 receive funds under this article on an exception basis. A
14 dental-only provider's application shall include a Memorandum of
15 Understanding (MOU) with a primary care clinic funded under
16 this article. The MOU shall include medical protocols for making
17 referrals by the primary care clinic to the dental clinic and from the
18 dental clinic to the primary care clinic, and ensure that case
19 management services are provided and that the patient is being
20 provided comprehensive primary care as defined in subdivision
21 (a).~~

22 ~~(h) (1) For purposes of this article, an outpatient visit shall
23 include diagnosis and medical treatment services, including the
24 associated pharmacy, X-ray, and laboratory services, and
25 prevention health and case management services that are needed
26 as a result of the outpatient visit. For a new patient, an outpatient
27 visit shall also include a health assessment encompassing an
28 assessment of smoking behavior and the patient's need for
29 appropriate health education specific to related tobacco use and
30 exposure.~~

31 ~~(2) "Case management" includes, for this purpose, the
32 management of all physician services, both primary and specialty,
33 and arrangements for hospitalization, postdischarge care, and
34 followup care.~~

35 ~~(i) (1) Payment shall be on a per visit basis at a rate that is
36 determined by the department to be appropriate for an outpatient
37 visit as defined in this section, and shall be not less than
38 seventy-one dollars and fifty cents (\$71.50).~~

39 ~~(2) Notwithstanding paragraph (1), if a clinic receives a
40 funding award that is above its 2000-01 fiscal year funding award~~



1 level, the amount of the award above its 2000-01 funding award
2 level shall be eligible for a rate adjustment for dental visits. The
3 rate adjustment for a dental visit on a per visit basis shall be not less
4 than ninety one dollars and fifty cents (\$91.50).

5 (3) In developing a statewide uniform rate for an outpatient
6 visit as defined in this article, the department shall consider
7 existing rates of payments for comparable outpatient visits. The
8 department shall review the outpatient visit rate on an annual basis.

9 (j) Not later than May 1 of each year, the department shall adopt
10 and provide each licensed primary care clinic with a schedule for
11 programs under this article, including the date for notification of
12 availability of funds, the deadline for the submission of a
13 completed application, and an anticipated contract award date for
14 successful applicants.

15 (k) In administering the program created pursuant to this
16 article, the department shall utilize the Medi-Cal program statutes
17 and regulations pertaining to program participation standards,
18 medical and administrative recordkeeping, the ability of the
19 department to monitor and audit clinic records pertaining to
20 program services rendered to program beneficiaries and take
21 recoupments or recovery actions consistent with monitoring and
22 audit findings, and the provider's appeal rights. Each primary care
23 clinic applying for program participation shall certify that it will
24 abide by these statutes and regulations and other program
25 requirements set forth in this article.

26 SEC. 3. Section 124906 of the Health and Safety Code is
27 amended to read:

28 124906. A program applicant's uncompensated care shall be
29 determined by, and based on, the number of visits for patients
30 whose income level is at or below 200 percent of the federal
31 poverty level, and whose health care costs are not reimbursed by
32 any encounter-based third-party payer, which includes, but is not
33 limited to, unpaid expanded access to primary care claims or other
34 unreimbursed visits, as verified by the department according to
35 paragraph (4) of subdivision (d) of Section 124900.

