

AMENDED IN ASSEMBLY JUNE 9, 2004

SENATE BILL

No. 1325

Introduced by Senator Kuehl

February 18, 2004

An act to ~~amend Section 2282 of~~ *add Section 2282.5 to* the Business and Professions Code, relating to medicine.

LEGISLATIVE COUNSEL'S DIGEST

SB 1325, as amended, Kuehl. Hospitals: physicians and surgeons: self-governance.

The Medical Practice Act provides for licensing and regulation of physicians and surgeons by the Medical Board of California. Existing law provides that the practice of medicine in a licensed general or specialized hospital having 5 or more physicians and surgeons on the medical staff without provision for organization and self-governance of the medical staff under certain rules constitutes unprofessional conduct subject to discipline by the board under the act. ~~Existing law sets forth the rules applicable to an organization of the medical staff under these circumstances, which rules include provision for appropriate officers, bylaws, and staff appointments on an annual or biennial basis. A violation of the Medical Practice Act is a crime.~~

This bill would ~~require the bylaws to set forth the contractual relationship between the self-governing medical staff and the hospital~~ *define the term "medical staff self-governance" and would specify certain independent rights and responsibilities that would be included in a hospital medical staff self-governance. The bill would require the medical staff and the hospital governing body to meet and confer to resolve disputes related to these provisions, and would authorize court relief in certain circumstances.*

Because ~~this~~ *the* bill would change the definition of a crime, it would ~~thereby~~ impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 ~~SECTION 1. — Section 2282 of the Business and Professions~~

2 *SECTION 1. Section 2282.5 is added to the Business and*
3 *Professions Code, to read:*

4 2282.5. (a) *The term “medical staff self-governance” means*
5 *the inherent professional rights and responsibilities of the medical*
6 *staff with respect to the medical staff members’ professional*
7 *services, obligations, responsibilities, and functions performed in*
8 *a general or specialized hospital, including medical staff*
9 *organization, administration, and operation as specified in this*
10 *section.*

11 *The Legislature acknowledges that the provision of quality*
12 *medical care in hospitals depends on the mutual accountability,*
13 *interdependence, and responsibility for the proper performance of*
14 *the respective obligations of the medical staff and the hospital*
15 *governing body.*

16 (b) *At a minimum, a hospital medical staff self-governance*
17 *shall include the independent right and responsibility of the*
18 *medical staff to do all of the following:*

19 (1) *Initiate, develop, and adopt medical staff bylaws, rules, and*
20 *regulations, and amendments thereto, subject to the approval of*
21 *the governing body, which shall not be unreasonably withheld.*

22 (2) *Establish the criteria and standards, consistent with Article*
23 *11 (commencing with Section 800) of Chapter 1 of Division 2, for*
24 *medical staff membership and privileges, subject to paragraph (1),*
25 *and enforce those criteria and standards.*

26 (3) *Establish criteria and standards to oversee and manage*
27 *quality assurance, utilization review, infection control, and other*



1 *medical staff activities including, but not limited to, periodic*
2 *meetings of the medical staff and its committees and departments*
3 *and review and analysis of patient medical records.*

4 *(4) Select and remove medical staff officers.*

5 *(5) Assess medical staff dues and utilize the medical staff dues*
6 *as appropriate for the purposes of the medical staff.*

7 *(6) Access and use independent legal counsel at its expense.*

8 *(c) Nothing in this section limits the responsibilities of the*
9 *medical staff or the hospital governing body from performing its*
10 *respective duties as otherwise required by law or regulation.*

11 *(d) With respect to any dispute arising under this section, the*
12 *medical staff and the hospital governing body shall meet and*
13 *confer in good faith to resolve the dispute. Whenever any person*
14 *or entity has engaged in or is about to engage in any acts or*
15 *practices that hinder, restrict, or otherwise obstruct the ability of*
16 *the medical staff to exercise its rights, obligations, or*
17 *responsibilities under this section, the superior court of any*
18 *county, on application of the medical staff, and after determining*
19 *that reasonable efforts, including reasonable administrative*
20 *remedies provided in the bylaws, have failed to resolve the dispute,*
21 *may issue an injunction, writ of mandate, or other appropriate*
22 *order. Proceedings under this section shall be governed by*
23 *Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of*
24 *the Code of Civil Procedure.*

25 ~~Code is amended to read:~~

26 ~~2282. The regular practice of medicine in a licensed general~~
27 ~~or specialized hospital having five or more physicians and~~
28 ~~surgeons on the medical staff, which does not have rules~~
29 ~~established by the board of directors thereof to govern the~~
30 ~~operation of the hospital, which rules include, among other~~
31 ~~provisions, all the following, constitutes unprofessional conduct:~~

32 ~~(a) Provision for the organization of physicians and surgeons~~
33 ~~licensed to practice in this state who are permitted to practice in the~~
34 ~~hospital into a formal medical staff with bylaws that set forth the~~
35 ~~contractual relationship between the self-governing medical staff~~
36 ~~and the hospital, with appropriate officers, and with staff~~
37 ~~appointments on an annual or biennial basis.~~

38 ~~(b) Provision that membership on the medical staff shall be~~
39 ~~restricted to physicians and surgeons and other licensed~~
40 ~~practitioners competent in their respective fields and worthy in~~



1 professional ethics. In this respect the division of profits from
2 professional fees in any manner shall be prohibited and any such
3 division shall be cause for exclusion from the staff.

4 (e) Provision that the medical staff shall be self-governing with
5 respect to the professional work performed in the hospital; that the
6 medical staff shall meet periodically and review and analyze at
7 regular intervals their clinical experience; and the medical records
8 of patients shall be the basis for such review and analysis.

9 (d) Provision that adequate and accurate medical records be
10 prepared and maintained for all patients.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

