

AMENDED IN SENATE JULY 2, 2008  
AMENDED IN SENATE JUNE 19, 2008  
AMENDED IN ASSEMBLY MAY 23, 2008  
AMENDED IN ASSEMBLY APRIL 23, 2008  
AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2146**

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**Introduced by Assembly Member Feuer**

February 20, 2008

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An act to add Sections ~~1279.4~~ 1279.4, 1279.5, and 1371.6 to the Health and Safety Code, to add Sections 10133.57 and 12693.55 to the Insurance Code, and to add Section 14110.25 to the Welfare and Institutions Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2146, as amended, Feuer. Health care providers: billing.

Existing law provides for the licensure and regulation of health facilities including hospitals by the State Department of Public Health. Violations of these provisions is a misdemeanor. *Existing law provides for the licensure and regulation of health care providers.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law requires a health care service plan to provide specified coverage to its enrollees and subscribers. Existing law provides that a willful violation of the act is a crime.

Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health insurance policy to provide specified coverage to insured persons.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits.

Existing law establishes the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health services to an eligible person.

This bill would require the development and implementation of policies governing the payment of health care providers for hospital-acquired conditions by the Healthy Families Program and the Medi-Cal program, *and to the extent feasible, all other state public health programs*, consistent with the policies developed by the federal Centers for Medicare and Medicaid Services. The bill would prohibit a contract between a ~~contracting~~ health care provider and a health care service plan or an insurer from prohibiting the adoption, implementation, or exercise of nonpayment policies *and practice* for hospital-acquired conditions. The bill would preclude a patient from being charged by a ~~contracting~~ health care provider for care and services for which payment has been denied by ~~a~~ the Healthy Families Program, the Medi-Cal program, a health care service plan, or an insurer according to the nonpayment policies *and practices* established pursuant to the bill.

This bill would require the medical director and the director of nursing of a hospital to report annually to the facility's board of directors regarding hospital-acquired conditions, as provided. ~~The bill would require the Secretary of California Health and Human Services to report to the Governor and the Legislature, on or before January 1, 2011, and biannually thereafter, specified information relating to the nonpayment policies for the Healthy Families Program and the Medi-Cal program, and the prevention of hospital-acquired conditions.~~

By changing the definition of existing crimes, this bill would 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 1279.4 is added to the Health and Safety  
2 Code, to read:

3 1279.4. ~~(a) (1)~~ The medical director and the director of nursing  
4 of each health facility, as defined by subdivision (a), (b), or (f) of  
5 Section 1250, shall report annually to the board of directors or  
6 other similar governing body the following:

7 ~~(A)~~

8 *(a)* The number of hospital-acquired conditions that occurred  
9 in the facility *in the most recent 12-month period*.

10 ~~(B)~~

11 *(b)* The outcomes for each patient involved.

12 ~~(C)~~

13 *(c)* Comparison to comparable institutions of rates of  
14 hospital-acquired conditions, if this data exists and is publicly  
15 available.

16 ~~(2) The report prepared pursuant to paragraph (1) shall be made~~  
17 ~~available by the health facility to the department or to any member~~  
18 ~~of the public upon request.~~

19 ~~(3) A health facility shall include in its annual report a statement~~  
20 ~~of compliance with this section.~~

21 ~~(b) The secretary, on or before January 1, 2011, and biannually~~  
22 ~~thereafter, shall report to the Legislature and the Governor on all~~  
23 ~~of the following:~~

24 ~~(1) The status and efficacy of nonpayment policies for the~~  
25 ~~Medi-Cal program and the Healthy Families Program.~~

26 ~~(2) The status and efficacy of nonpayment policies adopted by~~  
27 ~~private health plans.~~

28 ~~(3) Other opportunities and strategies to improve patient safety~~  
29 ~~through prevention of hospital-acquired conditions.~~

30 SEC. 2. Section 1279.5 is added to the Health and Safety Code,  
31 to read:

32 1279.5. *(a) A health care provider shall not charge a patient*  
33 *or any third-party payer that provides health benefits coverage to*  
34 *a patient for a hospital-acquired condition that would be subject*  
35 *to nonpayment policies and practices, as defined by the State*  
36 *Department of Health Care Services and the Managed Risk*  
37 *Medical Insurance Board pursuant to Section 14110.25 of the*

1 *Welfare and Institutions Code and Section 12693.55 of the*  
2 *Insurance Code.*

3 *(b) For the purposes of this section, “health care provider”*  
4 *means either of the following:*

5 *(1) A health facility, as defined in subdivision (a), (b), or (f) of*  
6 *Section 1250.*

7 *(2) A health care provider licensed under Division 2*  
8 *(commencing with Section 500) of the Business and Professions*  
9 *Code.*

10 ~~SEC. 2.~~

11 *SEC. 3.* Section 1371.6 is added to the Health and Safety Code,  
12 to read:

13 1371.6. (a) A contract entered into between a ~~contracting~~  
14 *health care provider* and a health care service plan shall not  
15 prohibit the adoption, implementation, or exercise of nonpayment  
16 policies *and practices* for hospital-acquired conditions consistent  
17 with those *policies and practices* adopted pursuant to Section  
18 14110.25 of the Welfare and Institutions Code or Section 12693.55  
19 of the Insurance Code.

20 (b) A ~~contracting~~ *health care provider* shall be precluded from  
21 charging a patient for care and services for which payment is denied  
22 by a health care service plan pursuant to nonpayment policies *and*  
23 *practices* for hospital-acquired conditions pursuant to this section.

24 (c) A ~~contracting~~ *health care provider* shall be precluded from  
25 charging an uninsured patient for any condition that would be  
26 subject to the nonpayment policies *and practices* of the Medi-Cal  
27 program or the Healthy Families Program adopted pursuant to  
28 Section 14110.25 of the Welfare and Institutions Code or Section  
29 12693.55 of the Insurance Code.

30 *(d) For the purposes of this section, “health care provider”*  
31 *means either of the following:*

32 *(1) A health facility, as defined in subdivision (a), (b), or (f) of*  
33 *Section 1250.*

34 *(2) A health care provider licensed under Division 2*  
35 *(commencing with Section 500) of the Business and Professions*  
36 *Code.*

37 ~~SEC. 3.~~

38 *SEC. 4.* Section 10133.57 is added to the Insurance Code, to  
39 read:

1 10133.57. (a) A contract entered into between a ~~contracting~~  
2 *health care* provider and an insurer shall not prohibit the adoption,  
3 implementation, or exercise of nonpayment policies *and practices*  
4 for hospital-acquired conditions consistent with those adopted  
5 pursuant to Section 14110.25 of the Welfare and Institutions Code  
6 or Section 12693.55.

7 (b) A ~~contracting~~ *health care* provider shall be precluded from  
8 charging a patient for care and services for which payment is denied  
9 by an insurer pursuant to nonpayment policies *and practices* for  
10 hospital-acquired conditions pursuant to this section.

11 (c) A ~~contracting~~ *health care* provider shall be precluded from  
12 charging an uninsured patient for any condition that would be  
13 subject to the nonpayment policies *and practices* of the Medi-Cal  
14 Program or the Healthy Families *Program* adopted pursuant to  
15 Section 14110.25 of the Welfare and Institutions Code or Section  
16 12693.55.

17 (d) *For the purposes of this section, "health care provider"*  
18 *means either of the following:*

19 (1) *A health facility, as defined in subdivision (a), (b), or (f) of*  
20 *Section 1250.*

21 (2) *A health care provider licensed under Division 2*  
22 *(commencing with Section 500) of the Business and Professions*  
23 *Code.*

24 ~~SEC. 4. Section 12693.55 is added to the Insurance Code, to~~  
25 ~~read:~~

26 ~~12693.55. The board, in collaboration with the State~~  
27 ~~Department of Health Care Services, shall develop and implement~~  
28 ~~policies governing the payment of health care providers for~~  
29 ~~hospital-acquired conditions by the Healthy Families Program as~~  
30 ~~follows:~~

31 (a) ~~The board shall adopt payment policies consistent with those~~  
32 ~~developed by the federal Centers for Medicare and Medicaid~~  
33 ~~Services (CMS) pursuant to Section 5001(e) of the Deficit~~  
34 ~~Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding~~  
35 ~~nonpayment for hospital-acquired conditions.~~

36 (b) ~~The board, in collaboration with the State Department of~~  
37 ~~Health Care Services, shall, to the extent feasible, synchronize its~~  
38 ~~definitions, coding and practices with CMS regarding nonpayment~~  
39 ~~policies for hospital-acquired conditions pursuant to paragraph~~  
40 ~~(1).~~

1 ~~(e) The board shall annually evaluate additional~~  
2 ~~hospital-acquired conditions that are appropriate for nonpayment~~  
3 ~~policies and shall incorporate those hospital-acquired conditions~~  
4 ~~into its nonpayment policies.~~

5 ~~(d) A contracting provider shall be precluded from charging a~~  
6 ~~patient for care and services for which payment is denied by the~~  
7 ~~Healthy Families Program pursuant to this section.~~

8 ~~SEC. 5. Section 14110.25 is added to the Welfare and~~  
9 ~~Institutions Code, to read:~~

10 ~~14110.25. The department shall develop and implement policies~~  
11 ~~governing the payment of health care providers for~~  
12 ~~hospital-acquired conditions under this chapter, as follows:~~

13 ~~(a) The department shall adopt payment policies consistent with~~  
14 ~~those developed by the federal Centers for Medicare and Medicaid~~  
15 ~~Services (CMS) pursuant to Section 5001(e) of the Deficit~~  
16 ~~Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding~~  
17 ~~nonpayment for hospital-acquired conditions.~~

18 ~~(b) The department shall, to the extent feasible, synchronize its~~  
19 ~~definitions, coding, and practices with CMS regarding nonpayment~~  
20 ~~policies for hospital-acquired conditions pursuant to paragraph~~  
21 ~~(1).~~

22 ~~(e) The department shall annually evaluate additional~~  
23 ~~hospital-acquired conditions that are appropriate for nonpayment~~  
24 ~~policies and shall incorporate those hospital-acquired conditions~~  
25 ~~into its nonpayment policies.~~

26 ~~(d) A contracting provider shall be precluded from charging a~~  
27 ~~patient for care and services for which payment is denied by the~~  
28 ~~Medi-Cal program pursuant to this section.~~

29 ~~SEC. 5. Section 12693.55 is added to the Insurance Code, to~~  
30 ~~read:~~

31 ~~12693.55. (a) The board, in collaboration with the State~~  
32 ~~Department of Health Care Services and in accordance with~~  
33 ~~Section 14110.25 of the Welfare and Institutions Code, shall~~  
34 ~~develop uniform policies and practices governing the payment of~~  
35 ~~health care providers for hospital-acquired conditions by state~~  
36 ~~public health programs as follows:~~

37 ~~(1) Adopt payment policies and practices consistent with those~~  
38 ~~developed by the federal Centers for Medicare and Medicaid~~  
39 ~~Services (CMS) pursuant to Section 5001(c) of the Deficit~~

1 *Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding*  
2 *nonpayment for hospital-acquired conditions.*

3 (2) *Synchronize its definitions, coding, and practices, to the*  
4 *extent feasible, with CMS regarding nonpayment policies and*  
5 *practices for hospital-acquired conditions pursuant to paragraph*  
6 *(1).*

7 (3) *Annually evaluate additional hospital-acquired conditions*  
8 *and health care providers that are appropriate for nonpayment*  
9 *policies and practices, and incorporate those hospital-acquired*  
10 *conditions or health care providers into its nonpayment policies.*  
11 *The board, in collaboration with the State Department of Health*  
12 *Care Services and in accordance with Section 14110.25 of the*  
13 *Welfare and Institutions Code, may do any of the following:*

14 (A) *Adopt, without regulation, additional hospital-acquired*  
15 *conditions if the adoption of those hospital-acquired conditions*  
16 *is consistent with the policy and practices of the federal Centers*  
17 *for Medicare and Medicaid Services.*

18 (B) *Adopt, by regulation, additional hospital-acquired conditions*  
19 *that are not consistent with the policy and practices of the federal*  
20 *Centers for Medicare and Medicaid Services.*

21 (C) *Adopt, by regulation, additional health care providers that*  
22 *would be subject to nonpayment policies and practices for*  
23 *hospital-acquired conditions.*

24 (b) *The board shall implement the nonpayment policies and*  
25 *practices developed pursuant to this section for the Healthy*  
26 *Families Program, and to the extent feasible, for all other*  
27 *programs administered by the board.*

28 (c) *A health care provider shall be precluded from charging a*  
29 *patient for care and services for which payment is denied by the*  
30 *Healthy Families Program or any other program administered by*  
31 *the board pursuant to this section.*

32 (d) *For the purposes of this section, "health care provider"*  
33 *means either of the following:*

34 (1) *A health facility, as defined in subdivision (a), (b), or (f) of*  
35 *Section 1250.*

36 (2) *A health care provider licensed under Division 2*  
37 *(commencing with Section 500) of the Business and Professions*  
38 *Code.*

39 *SEC. 6. Section 14110.25 is added to the Welfare and*  
40 *Institutions Code, to read:*

1     14110.25. (a) *The department, in collaboration with the State*  
2 *Managed Risk Medical Insurance Board and in accordance with*  
3 *Section 12693.55 of the Insurance Code, shall develop uniform*  
4 *policies and practices governing the payment of health care*  
5 *providers for hospital-acquired conditions by state public health*  
6 *programs as follows:*

7     (1) *Adopt payment policies and practices consistent with those*  
8 *developed by the federal Centers for Medicare and Medicaid*  
9 *Services (CMS) pursuant to Section 5001(c) of the Deficit*  
10 *Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)), regarding*  
11 *nonpayment for hospital-acquired conditions.*

12     (2) *Synchronize its definitions, coding, and practices, to the*  
13 *extent feasible, with CMS regarding nonpayment policies and*  
14 *practices for hospital-acquired conditions pursuant to paragraph*  
15 *(1).*

16     (3) *Annually evaluate additional hospital-acquired conditions*  
17 *and health care providers that are appropriate for nonpayment*  
18 *policies and practices, and incorporate those hospital-acquired*  
19 *conditions or health care providers into its nonpayment policies.*  
20 *The department, in collaboration with the State Managed Risk*  
21 *Medical Insurance Board and in accordance with Section 12693.55*  
22 *of the Insurance Code, may do any of the following:*

23     (A) *Adopt, without regulation, additional hospital-acquired*  
24 *conditions if the adoption of those hospital-acquired conditions*  
25 *is consistent with the policy and practices of the federal Centers*  
26 *for Medicare and Medicaid Services.*

27     (B) *Adopt, by regulation, additional hospital-acquired conditions*  
28 *that are not consistent with the policy and practices of the federal*  
29 *Centers for Medicare and Medicaid Services.*

30     (C) *Adopt, by regulation, additional health care providers that*  
31 *would be subject to nonpayment policies and practices for*  
32 *hospital-acquired conditions.*

33     (b) *The department shall implement the nonpayment policies*  
34 *and practices developed pursuant to this section for the Medi-Cal*  
35 *program, and to the extent feasible, for all other programs*  
36 *administered by the department.*

37     (c) *A health care provider shall be precluded from charging a*  
38 *patient for care and services for which payment is denied by the*  
39 *Medi-Cal program or any other program administered by the*  
40 *department pursuant to this section.*



1 (d) For the purposes of this section, “health care provider”  
2 means either of the following:

3 (1) A health facility, as defined in subdivision (a), (b), or (f) of  
4 Section 1250.

5 (2) A health care provider licensed under Division 2  
6 (commencing with Section 500) of the Business and Professions  
7 Code.

8 ~~SEC. 6.~~

9 SEC. 7. No reimbursement is required by this act pursuant to  
10 Section 6 of Article XIII B of the California Constitution because  
11 the only costs that may be incurred by a local agency or school  
12 district will be incurred because this act creates a new crime or  
13 infraction, eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section 17556 of  
15 the Government Code, or changes the definition of a crime within  
16 the meaning of Section 6 of Article XIII B of the California  
17 Constitution.