

AMENDED IN ASSEMBLY JULY 1, 2008

AMENDED IN SENATE MAY 23, 2008

AMENDED IN SENATE APRIL 23, 2008

SENATE BILL

No. 1294

Introduced by Senator Ducheny

February 19, 2008

An act to amend Section 2401.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1294, as amended, Ducheny. Healing arts.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law establishes, until January 1, 2011, a pilot project to allow qualified district hospitals to employ a physician and surgeon, if the hospital does not interfere with, control, or otherwise direct the professional judgment of the physician and surgeon. The pilot project authorizes the direct employment of a total of 20 physicians and surgeons by those hospitals, and specifies that each qualified district hospital may employ up to 2 physicians and surgeons, subject to certain requirements. Existing law defines a qualified district hospital for purposes of the pilot project as a hospital that, among other things, is located in a county with a population of less than 750,000 and had net losses in fiscal year 2001–02. Existing law requires the Medical Board of California to report to the Legislature not later than October 8, 2008, on the effectiveness of the pilot project.

This bill would revise the pilot project to allow the employment of more than 20 physicians and surgeons, subject to statewide demand and at the discretion of the board, and to allow the total number of licensees employed by a qualified district hospital to exceed 2, if deemed appropriate by the board on a case-by-case basis. The bill would revise the definition of a qualified district hospital, to a hospital that, among other things, is located in a medically underserved area or a rural hospital and had net losses in the most recent fiscal year. The bill would extend the pilot project until January 1, ~~2016~~ 2017, would require the board to provide a supplemental report to the Legislature not later than October 1, ~~2013~~ 2014, on the evaluation of the effectiveness of the pilot project, and would make conforming changes.

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

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

1 SECTION 1. Section 2401.1 of the Business and Professions
 2 Code is amended to read:
 3 2401.1. (a) The Legislature finds and declares as follows:
 4 (1) Due to the large number of uninsured and underinsured
 5 Californians, a number of California communities are having great
 6 difficulty recruiting and retaining physicians and surgeons.
 7 (2) In order to recruit physicians and surgeons to provide
 8 medically necessary services in rural and medically underserved
 9 communities, many district hospitals have no viable alternative
 10 but to directly employ physicians and surgeons in order to provide
 11 economic security adequate for a physician and surgeon to relocate
 12 and reside in their communities.
 13 (3) The Legislature intends that a district hospital meeting the
 14 conditions set forth in this section be able to employ physicians
 15 and surgeons directly, and to charge for their professional services.
 16 (4) *The purpose of the pilot project established by this section*
 17 *is to improve recruitment and retention of physicians and surgeons*
 18 *in rural or other medically underserved areas throughout*
 19 *California.*
 20 ~~(4)~~
 21 (5) The Legislature reaffirms that Section 2400 provides an
 22 increasingly important protection for patients and physicians and
 23 surgeons from inappropriate intrusions into the practice of

1 medicine, and further intends that a district hospital not interfere
2 with, control, or otherwise direct a physician and surgeon's
3 professional judgment.

4 (b) A pilot project to provide for the direct employment of a
5 total of 20 physicians and surgeons by qualified district hospitals
6 is hereby established in order to improve the recruitment and
7 retention of physicians and surgeons in rural and other medically
8 underserved areas.

9 (c) For purposes of this section, a qualified district hospital
10 means a hospital that meets all of the following requirements:

11 (1) Is a district hospital organized and governed pursuant to the
12 Local Health Care District Law (Division 23 (commencing with
13 Section 32000) of the Health and Safety Code).

14 (2) Provides a percentage of care to Medicare, Medi-Cal, and
15 uninsured patients that exceeds 50 percent of patient days,
16 excluding patient days devoted to contracts with the Department
17 of Corrections and Rehabilitation.

18 (3) Is located within a medically underserved population,
19 medically underserved area, or health professions shortage area,
20 so designated by the federal government pursuant to Section 254b,
21 254c-14, or 254e of Title 42 of the United States Code, or is a rural
22 hospital as defined in Section 124840 of the Health and Safety
23 Code.

24 (4) Has net losses from operations in the most recent fiscal year
25 prior to executing an employment contract, as reported to the Office
26 of Statewide Health Planning and Development.

27 (d) In addition to the requirements of subdivision (c), and in
28 addition to other applicable laws, a qualified district hospital may
29 directly employ a licensee pursuant to subdivision (b) if all of the
30 following conditions are satisfied:

31 (1) The total number of physicians and surgeons employed by
32 all qualified district hospitals under this section does not exceed
33 20. If statewide demand exceeds the statewide cap, additional
34 physicians and surgeons may be employed under this section at
35 the discretion of the board.

36 (2) The medical staff and the elected trustees of the qualified
37 district hospital concur by an affirmative vote of each body that
38 the physician and surgeon's employment is in the best interest of
39 the communities served by the hospital.

1 (3) The licensee enters into or renews a written employment
2 contract with the qualified district hospital prior to December 31,
3 ~~2011~~ 2012, for a term not in excess of four years. The contract
4 shall provide for mandatory dispute resolution under the auspices
5 of the board for disputes directly relating to the licensee’s clinical
6 practice.

7 (4) The total number of licensees employed by the qualified
8 district hospital does not exceed two at any time, unless the
9 employment of additional physicians and surgeons is deemed
10 appropriate by the board on a case-by-case basis.

11 (5) The qualified district hospital notifies the board in writing
12 that the hospital plans to enter into a written contract with the
13 licensee, and the board has confirmed that the licensee’s
14 employment is within the maximum number permitted by this
15 section. The board shall provide written confirmation to the hospital
16 within five working days of receipt of the written notification to
17 the board.

18 (e) The board shall report to the Legislature not later than
19 October 1, 2008, and shall provide a supplemental report not later
20 than October 1, ~~2013~~ 2014, on the evaluation of the effectiveness
21 of the pilot project in improving access to health care in rural and
22 medically underserved areas and the project’s impact on consumer
23 protection as it relates to intrusions into the practice of medicine.

24 (f) Nothing in this section shall exempt the district hospital from
25 any reporting requirements or affect the board’s authority to take
26 action against a physician and surgeon’s license.

27 (g) This section shall remain in effect only until January 1, ~~2016~~
28 2017, and as of that date is repealed, unless a later enacted statute
29 that is enacted before January 1, ~~2016~~ 2017, deletes or extends
30 that date.