

AMENDED IN SENATE JUNE 18, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 542

Introduced by Assembly Member Feuer

February 25, 2009

An act to ~~amend Sections 1279.1 and 1279.2 of, to add Sections 1279.4 and 1371.6 to, and to add Part 5.5 (commencing with Section 128870) to Division 107 of, the Health and Safety Code, to add Sections 10191.5, 12693.56, 12699.06, and 12739.5 to the Insurance Code, and to add Article 5.4 (commencing with Section 14182) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public health.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 542, as amended, Feuer. ~~Adverse medical events. Hospital acquired conditions.~~

Existing law establishes various programs for the prevention of disease and the promotion of health, including, but not limited to, the licensing and regulation of health facilities to be administered by the State Department of Public Health. Existing law requires specified health facilities to report patient adverse events to the department within 5 days. A violation of these provisions is a misdemeanor.

~~This bill would expand the specified adverse events requiring reporting to include, among others, manifestations of poor glycemic control, catheter-associated urinary tract infection, and surgical-site infection, and would require a surgical clinic to comply with these health facility~~

~~adverse event reporting requirements. The bill would require the department to collect adverse event information, and investigate adverse events.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, administered by the Department of Managed Health Care, regulates health care service plans. A willful violation of these provisions is a crime.

This bill would require the medical director and the director of nursing of a hospital to annually report adverse events *and hospital acquired conditions* to its governing board.

The bill would require a contract between a hospital or licensed surgical clinic and a health care service plan to be consistent with policies of nonpayment for ~~substantiated adverse events~~ *hospital acquired conditions*.

This bill would require the Department of Managed Health Care, in collaboration with the State Department of Public Health, the State Department of Health Care Services, the Managed Risk Medical Insurance Board, the California Public Employees' Retirement System, and the Department of Insurance, to adopt and implement regulations that establish uniform policies and practices governing the nonpayment of a hospital or licensed surgical clinic for ~~substantiated adverse events~~ *hospital acquired conditions* by state public health programs. The bill would require, after the adoption of these regulations, that the State Department of Public Health, the State Department of Health Care Services, the Managed Risk Medical Insurance Board, the California Public Employees' Retirement System, and the Department of Insurance, adopt and implement similar regulations. The bill would prohibit a hospital or licensed surgical clinic from charging for services related to a ~~substantiated adverse event~~ *hospital acquired condition*.

By changing the definition of existing crimes, this bill would impose a state-mandated local program.

Existing law provides for the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, under which health care services are provided to qualified low-income children.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income persons.

This bill would require that contracts between a hospital or licensed surgical clinic and a health care service plan, an insurer, the Healthy Families Program, or the Medi-Cal program be consistent with those

nonpayment policies for ~~substantiated adverse events~~ *hospital acquired conditions*.

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. The Legislature finds and declares all of the
2 following:

3 (a) Patients seeking medical treatment have a right to quality
4 medical care delivered in a timely, safe, and appropriate manner.

5 (b) Licensed health facilities are vital community resources that
6 perform life-saving procedures and ensure the health and welfare
7 of the general public.

8 (c) Despite the best intentions of a health facility, when ~~an~~
9 ~~adverse event~~ *a hospital acquired condition* occurs, a patient can
10 be harmed, potentially leading to serious disability or even death.

11 (d) ~~Most adverse events~~ *hospital acquired conditions* can be
12 prevented through ongoing health care provider education and
13 established safety plans and procedures. It is the policy of the State
14 of California to encourage constant monitoring and continuous
15 improvement in health care quality processes to ensure patient
16 safety.

17 (e) It is the policy of the State of California that patients and
18 purchasers of health care services should not be billed for
19 ~~substantiated adverse events~~ *hospital acquired conditions*. It is
20 also the policy of the State of California that ~~adverse events, when~~
21 ~~substantiated,~~ *hospital acquired conditions* should not be
22 reimbursed by patients or purchasers of health care services.

23 (f) Patients who have been harmed by ~~an adverse event~~ *a*
24 *hospital acquired condition* must receive the medically necessary
25 followup care to correct or treat the complications or consequences
26 of the ~~adverse event~~ *hospital acquired condition*, to the extent
27 possible. Medically necessary followup care and services should
28 be reimbursed.

1 (g) The development of policies and procedures for the
2 nonbilling and nonpayment of ~~adverse events~~ *hospital acquired*
3 *conditions* is a complex process that requires expertise from many
4 sectors of the health care delivery system. While these policies
5 and procedures are being established, the State of California
6 encourages private sector solutions that bring improvement in the
7 delivery of health care services and a reduction in the occurrence
8 of ~~adverse events~~ *hospital acquired conditions*.

9 ~~SEC. 2. Section 1279.1 of the Health and Safety Code is~~
10 ~~amended to read:~~

11 ~~1279.1. (a) A health facility licensed pursuant to subdivision~~
12 ~~(a), (b), or (f) of Section 1250 or a surgical clinic licensed pursuant~~
13 ~~to paragraph (1) of subdivision (b) of Section 1204 shall report an~~
14 ~~adverse event to the licensing and certification division of the~~
15 ~~department no later than five days after the adverse event has been~~
16 ~~detected, or, if that event is an ongoing urgent or emergent threat~~
17 ~~to the welfare, health, or safety of patients, personnel, or visitors,~~
18 ~~not later than 24 hours after the adverse event has been detected.~~
19 ~~Disclosure of individually identifiable patient information shall~~
20 ~~be consistent with applicable law.~~

21 ~~(b) For purposes of this section, “adverse event” includes any~~
22 ~~of the following:~~

23 ~~(1) Surgical events, including the following:~~

24 ~~(A) Surgery performed on a wrong body part that is inconsistent~~
25 ~~with the documented informed consent for that patient. A reportable~~
26 ~~event under this subparagraph does not include a situation requiring~~
27 ~~prompt action that occurs in the course of surgery or a situation~~
28 ~~that is so urgent as to preclude obtaining informed consent.~~

29 ~~(B) Surgery performed on the wrong patient.~~

30 ~~(C) The wrong surgical procedure performed on a patient, which~~
31 ~~is a surgical procedure performed on a patient that is inconsistent~~
32 ~~with the documented informed consent for that patient. A reportable~~
33 ~~event under this subparagraph does not include a situation requiring~~
34 ~~prompt action that occurs in the course of surgery, or a situation~~
35 ~~that is so urgent as to preclude the obtaining of informed consent.~~

36 ~~(D) Retention of a foreign object in a patient after surgery or~~
37 ~~other procedure, excluding objects intentionally implanted as part~~
38 ~~of a planned intervention and objects present prior to surgery that~~
39 ~~are intentionally retained.~~

- 1 ~~(E) Death during or up to 24 hours after induction of anesthesia~~
2 ~~after surgery of a normal, healthy patient who has no organic,~~
3 ~~physiologic, biochemical, or psychiatric disturbance and for whom~~
4 ~~the pathologic processes for which the operation is to be performed~~
5 ~~are localized and do not entail a systemic disturbance.~~
- 6 ~~(2) Product or device events, including the following:~~
 - 7 ~~(A) Patient death or serious disability associated with the use~~
8 ~~of a contaminated drug, device, or biologic provided by the health~~
9 ~~facility when the contamination is the result of generally detectable~~
10 ~~contaminants in the drug, device, or biologic, regardless of the~~
11 ~~source of the contamination or the product.~~
 - 12 ~~(B) Patient death or serious disability associated with the use~~
13 ~~or function of a device in patient care in which the device is used~~
14 ~~or functions other than as intended. For purposes of this~~
15 ~~subparagraph, "device" includes, but is not limited to, a catheter,~~
16 ~~drain, or other specialized tube, infusion pump, or ventilator.~~
 - 17 ~~(C) Patient death or serious disability associated with~~
18 ~~intravascular air embolism that occurs while being cared for in a~~
19 ~~facility, excluding deaths associated with neurosurgical procedures~~
20 ~~known to present a high risk of intravascular air embolism.~~
- 21 ~~(3) Patient protection events, including the following:~~
 - 22 ~~(A) An infant discharged to the wrong person.~~
 - 23 ~~(B) Patient death or serious disability associated with patient~~
24 ~~disappearance for more than four hours, excluding events involving~~
25 ~~adults who have competency or decisionmaking capacity.~~
 - 26 ~~(C) A patient suicide or attempted suicide resulting in serious~~
27 ~~disability while being cared for in a health facility due to patient~~
28 ~~actions after admission to the health facility, excluding deaths~~
29 ~~resulting from self-inflicted injuries that were the reason for~~
30 ~~admission to the health facility.~~
- 31 ~~(4) Care management events, including the following:~~
 - 32 ~~(A) A patient death or serious disability associated with a~~
33 ~~medication error, including, but not limited to, an error involving~~
34 ~~the wrong drug, the wrong dose, the wrong patient, the wrong~~
35 ~~time, the wrong rate, the wrong preparation, or the wrong route of~~
36 ~~administration, excluding reasonable differences in clinical~~
37 ~~judgment on drug selection and dose.~~
 - 38 ~~(B) A patient death or serious disability associated with a~~
39 ~~hemolytic reaction due to the administration of ABO-incompatible~~
40 ~~blood or blood products.~~

- 1 ~~(C) Maternal death or serious disability associated with labor~~
2 ~~or delivery in a low-risk pregnancy while being cared for in a~~
3 ~~facility, including events that occur within 42 days postdelivery~~
4 ~~and excluding deaths from pulmonary or amniotic fluid embolism,~~
5 ~~acute fatty liver of pregnancy, or cardiomyopathy.~~
- 6 ~~(D) Patient death or serious disability directly related to~~
7 ~~manifestations of poor glycemic control, the onset of which occurs~~
8 ~~while the patient is being cared for in a health facility. For the~~
9 ~~purposes of this section, “manifestations of poor glycemic control”~~
10 ~~include, but are not limited to, hypoglycemia, diabetic ketoacidosis,~~
11 ~~nonketotic hyperosmolar coma, hypoglycemic coma, secondary~~
12 ~~diabetes with ketoacidosis, or secondary diabetes with~~
13 ~~hyperosmolarity.~~
- 14 ~~(E) Death or serious disability, including kernicterus, associated~~
15 ~~with failure to identify and treat hyperbilirubinemia in neonates~~
16 ~~during the first 28 days of life. For purposes of this subparagraph,~~
17 ~~“hyperbilirubinemia” means bilirubin levels greater than 30~~
18 ~~milligrams per deciliter.~~
- 19 ~~(F) A Stage 3 or 4 ulcer, acquired after admission to a health~~
20 ~~facility, excluding progression from Stage 2 to Stage 3 if Stage 2~~
21 ~~was recognized upon admission.~~
- 22 ~~(G) A patient death or serious disability due to spinal~~
23 ~~manipulative therapy performed at the health facility.~~
- 24 ~~(H) Patient death or serious disability due to a~~
25 ~~catheter-associated urinary tract infection (UTI).~~
- 26 ~~(I) Vascular catheter-associated infection.~~
- 27 ~~(J) Mediastinitis after coronary bypass graft.~~
- 28 ~~(K) Surgical site infection following orthopedic procedures, as~~
29 ~~defined in subparagraph (O).~~
- 30 ~~(L) Surgical site infection following bariatric surgery for obesity.~~
- 31 ~~(M) Deep vein thrombosis following orthopedic procedures, as~~
32 ~~defined in subparagraph (O).~~
- 33 ~~(N) Pulmonary embolism following orthopedic procedures, as~~
34 ~~defined in subparagraph (O).~~
- 35 ~~(O) For the purposes of subparagraphs (K), (M), and (N),~~
36 ~~“orthopedic procedures” means one or more of the following~~
37 ~~procedures: atlas-axis fusion, other cervical fusion, dorsal/dorsulum~~
38 ~~fusion, lumbar/lumbosac fusion, arthrodesis of shoulder, arthrodesis~~
39 ~~of elbow, refusion of atlas-axis, refusion of cervical spine, refusion~~

1 of dorsal spine, refusion of lumbar spine, shoulder arthroplast, or
2 elbow arthroplast.
3 (5) Environmental events, including the following:
4 (A) A patient death or serious disability associated with an
5 electric shock while being cared for in a health facility, excluding
6 events involving planned treatments, such as electric countershock.
7 (B) Any incident in which a line designated for oxygen or other
8 gas to be delivered to a patient contains the wrong gas or is
9 contaminated by a toxic substance.
10 (C) A patient death or serious disability associated with a burn
11 incurred from any source while being cared for in a health facility.
12 (D) A patient death associated with a fall while being cared for
13 in a health facility.
14 (E) A patient death or serious disability associated with the use
15 of restraints or bedrails while being cared for in a health facility.
16 (6) Criminal events, including the following:
17 (A) Any instance of care ordered by or provided by someone
18 impersonating a physician, nurse, pharmacist, or other licensed
19 health care provider.
20 (B) The abduction of a patient of any age.
21 (C) The sexual assault on a patient within or on the grounds of
22 a health facility.
23 (D) The death or significant injury of a patient or staff member
24 resulting from a physical assault that occurs within or on the
25 grounds of a facility.
26 (7) An adverse event or series of adverse events that cause the
27 death or serious disability of a patient, personnel, or visitor.
28 (e) The facility shall inform the patient or the party responsible
29 for the patient of the adverse event by the time the report is made.
30 (d) “Serious disability” means a physical or mental impairment
31 that substantially limits one or more of the major life activities of
32 an individual, or the loss of bodily function, if the impairment or
33 loss lasts more than seven days or is still present at the time of
34 discharge from an inpatient health care facility, or the loss of a
35 body part.
36 (e) Nothing in this section shall be interpreted to change or
37 otherwise affect hospital reporting requirements regarding
38 reportable diseases or unusual occurrences, as provided in Section
39 70737 of Title 22 of the California Code of Regulations. The
40 department shall review Section 70737 of Title 22 of the California

1 Code of Regulations requiring hospitals to report “unusual
2 occurrences” and consider amending the section to enhance the
3 clarity and specificity of this hospital reporting requirement.

4 (f) (1) Notwithstanding any other provision of law, the licensing
5 and certification division of the department shall collect
6 information regarding substantiated adverse events. The
7 information shall include, but need not be limited to, patient name
8 and payer source, and shall be provided to state government payers,
9 including, but not limited to, the State Department of Health Care
10 Services and the Managed Risk Medical Insurance Board.

11 (2) State payers shall maintain the confidentiality of the
12 information obtained and only use the information for program
13 administration. The information shall not be disclosed further,
14 except to consultants and contractors with whom the payers share
15 the information for the purposes of program administration,
16 including the purposes of this section and of Part 5.5 (commencing
17 with Section 128870) of Division 107.

18 (3) Any costs associated with the compilation and distribution
19 of information gathered pursuant to this subdivision shall be shared
20 on a pro rata basis by the state agencies receiving this information.

21 SEC. 3. Section 1279.2 of the Health and Safety Code is
22 amended to read:

23 1279.2. (a) (1) In any case in which the department receives
24 a report from a facility pursuant to Section 1279.1, or a written or
25 oral complaint involving a health facility licensed pursuant to
26 subdivision (a), (b), or (f) of Section 1250, that indicates an
27 ongoing threat of imminent danger of death or serious bodily harm,
28 the department shall make an onsite inspection or investigation
29 within 48 hours or two business days, whichever is greater, of the
30 receipt of the report or complaint and shall complete that
31 investigation within 45 days.

32 (2) Until the department has determined by onsite inspection
33 that the adverse event has been resolved, the department shall, not
34 less than once a year, conduct an unannounced inspection of any
35 health facility that has reported an adverse event pursuant to
36 Section 1279.1.

37 (b) In any case in which the department is able to determine
38 from the information available to it that there is no threat of
39 imminent danger of death or serious bodily harm to that patient or

1 other patients, the department shall complete an investigation of
2 the report within 45 days.

3 (e) (1) The department shall notify the complainant and licensee
4 in writing of the department's determination as a result of an
5 inspection or report.

6 (2) In concluding the investigation of a reported adverse event,
7 the department shall determine whether the adverse event was
8 substantiated or not.

9 (d) For purposes of this section, "complaint" means any oral or
10 written notice to the department, other than a report from the health
11 facility, of an alleged violation of applicable requirements of state
12 or federal law or an allegation of facts that might constitute a
13 violation of applicable requirements of state or federal law.

14 (e) The costs of administering and implementing this section
15 shall be paid from funds derived from existing licensing fees paid
16 by general acute care hospitals, acute psychiatric hospitals, and
17 special hospitals.

18 (f) In enforcing this section and Sections 1279 and 1279.1, the
19 department shall take into account the special circumstances of
20 small and rural hospitals, as defined in Section 124840, in order
21 to protect the quality of patient care in those hospitals.

22 (g) In preparing the staffing and systems analysis required
23 pursuant to Section 1266, the department shall also report regarding
24 the number and timeliness of investigations of adverse events
25 initiated in response to reports of adverse events.

26 ~~SEC. 4.~~

27 *SEC. 2.* Section 1279.4 is added to the Health and Safety Code,
28 to read:

29 1279.4. (a) The medical director and the director of nursing
30 of each health facility, as defined by subdivision (a), (b), or (f) of
31 Section 1250, shall report annually to the board of directors or
32 other similar governing body the following:

33 (1) The number of adverse events *and hospital acquired*
34 *conditions* that occurred in the facility in the most recent 12-month
35 period.

36 (2) The outcomes for each patient involved.

37 (3) A comparison to comparable institutions of rates of adverse
38 events *and hospital acquired conditions*, if this data exists and is
39 publicly available.

1 (b) No communication of data or information pursuant to this
2 section by an officer or employee of the corporation to the
3 governing body shall constitute a waiver of privileges preserved
4 by Section 1156, 1156.1, or 1157 of the Evidence Code or Section
5 1370.

6 ~~SEC. 5.~~

7 SEC. 3. Section 1371.6 is added to the Health and Safety Code,
8 to read:

9 1371.6. (a) A contract between a health facility and a health
10 care service plan shall be consistent with the adoption,
11 implementation, and exercise of nonpayment policies and practices
12 for ~~substantiated adverse events~~ *hospital acquired conditions*, as
13 defined by the regulations adopted pursuant to Section 128871.

14 (b) A health facility shall not charge a patient for care and
15 services for which payment is denied by a health care service plan
16 pursuant to nonpayment policies and practices for ~~substantiated~~
17 ~~adverse events~~ *hospital acquired conditions* pursuant to this
18 section.

19 (c) The director may require additional documentation from a
20 health care service plan to ensure that any contract authorized
21 under this section shall provide medically necessary care and
22 reimbursement for patients in compliance with this section.

23 (d) Nothing in this section shall be construed to impair or impede
24 the application of any other provision of this chapter, including,
25 but not limited to, Sections 1367, 1371, 1371.37, and 1375.7.

26 (e) For the purposes of this section, “health facility” means a
27 health care entity licensed pursuant to subdivision (a), (b), or (f)
28 of Section 1250, and a surgical clinic licensed pursuant to
29 paragraph (1) of subdivision (b) of Section 1204.

30 ~~SEC. 6.~~

31 SEC. 4. Part 5.5 (commencing with Section 128870) is added
32 to Division 107 of the Health and Safety Code, to read:

33

34 PART 5.5. ~~ADVERSE EVENTS~~*HOSPITAL ACQUIRED*
35 *CONDITIONS*

36

37 128870. For purposes of this part, the following definitions
38 shall apply:

39 (a) “Health facility” means a health care entity licensed pursuant
40 to subdivision (a), (b), or (f) of Section 1250 or a surgical clinic

1 licensed pursuant to paragraph (1) of subdivision (b) of Section
2 1204.

3 (b) “Patient” means a person who receives or should have
4 received health care or treatment from a health facility or clinic
5 regardless of insurance status or health benefits.

6 (c) “Payer” means all health care insurers, health care service
7 plans, Medi-Cal managed care plans contracting with the State
8 Department of Health Care Services pursuant to Chapter 7
9 (commencing with Section 14000), Chapter 8 (commencing with
10 Section 14200), or Chapter 8.75 (commencing with Section 14590)
11 of Part 3 of Division 9 of the Welfare and Institutions Code,
12 self-insured employers, and any state or local government entity
13 that pays claims for the provision of health care services by a health
14 care provider.

15 128871. (a) The Department of Managed Health Care, in
16 collaboration with the State Department of Public Health, the State
17 Department of Health Care Services, the Managed Risk Medical
18 Insurance Board, the California Public Employees’ Retirement
19 System, and the Department of Insurance, shall adopt and
20 implement regulations that establish uniform policies and practices
21 governing the nonpayment of a health facility for ~~substantiated~~
22 ~~adverse events~~ *hospital acquired conditions* by state public health
23 programs as follows:

24 (1) On or before September 1, 2010, adopt payment policies
25 and practices regarding nonpayment for ~~substantiated~~ ~~adverse~~
26 ~~events~~ *hospital acquired conditions* that are consistent with those
27 developed by the federal Centers for Medicare and Medicaid
28 Services (CMS) pursuant to Section 5001(c) of the Deficit
29 Reduction Act of 2005 (42 U.S.C. Sec. 1395ww(d)(4)) and that
30 have the following characteristics, as defined by CMS:

31 (A) High cost or high volume, or both.

32 (B) Not present on admission.

33 (C) Reasonably could have been prevented through the
34 application of evidence-based guidelines.;

35 (2) Synchronize definitions, coding, ~~and practices,~~ *practices,*
36 *and payment methodologies,* to the extent feasible, with CMS
37 regarding nonpayment for ~~substantiated~~ ~~adverse events~~ *hospital*
38 *acquired conditions.*

39 (3) On or before January 1, 2012, and annually thereafter, update
40 payment policies and practices regarding nonpayment for

1 ~~substantiated adverse events~~ *hospital acquired conditions* to reflect
2 changes made to those developed and implemented by CMS.

3 (4) *Establish guidelines and procedures for health facilities to*
4 *report the occurrence of hospital acquired conditions to the State*
5 *Department of Public Health, the Office of Statewide Health*
6 *Planning and Development, or any other appropriate agency or*
7 *department.*

8 (b) The Department of Managed Health Care, in collaboration
9 with the State Department of Public Health, the State Department
10 of Health Care Services, the Managed Risk Medical Insurance
11 Board, the California Public Employees' Retirement System, and
12 the Department of Insurance, may consult with individuals with
13 relevant clinical and other health care expertise to assist in the
14 development of the regulations adopted pursuant to this section.

15 (c) After the Department of Managed Health Care has adopted
16 the regulations required pursuant to this section, the State
17 Department of Public Health, the State Department of Health Care
18 Services, the Managed Risk Medical Insurance Board, the
19 California Public Employees' Retirement System, and the
20 Department of Insurance shall adopt regulations that are identical
21 or substantially similar to those regulations adopted pursuant to
22 subdivision (a).

23 128872. In accordance with the nonpayment policies and
24 practices adopted by regulation pursuant to Section 128871, a
25 health facility shall not charge, nor is a patient or payer required
26 to pay, for ~~substantiated adverse events~~ *hospital acquired*
27 *conditions*. When a ~~substantiated adverse event~~ *hospital acquired*
28 *condition* occurs, the health facility shall disclose the occurrence
29 of the ~~event~~ *hospital acquired condition* to the applicable payer.

30 128873. (a) This part shall not be interpreted or implemented
31 in a way that would limit patient access to needed health care
32 services or payment to a health facility for medically necessary
33 followup care to correct or treat the complications or consequences
34 of the ~~adverse event~~ *hospital acquired condition* or for the care
35 originally sought by the patient.

36 (b) For state and local government health care programs that
37 receive federal funds, this part shall be implemented only to the
38 extent that federal financial participation for those programs is not
39 jeopardized.

1 ~~SEC. 7.~~

2 *SEC. 5.* Section 10191.5 is added to the Insurance Code, to
3 read:

4 10191.5. (a) A contract between a health facility and an insurer
5 shall be consistent with the adoption, implementation, and exercise
6 of nonpayment policies and practices for ~~substantiated adverse~~
7 ~~events~~ *hospital acquired conditions* as defined by the federal
8 Centers for Medicare and Medicaid Services and the regulations
9 adopted pursuant to Section 128871 of the Health and Safety Code.

10 (b) Pursuant to this section, a health facility shall not charge a
11 patient for care and services for which payment is denied by an
12 insurer pursuant to nonpayment policies and practices for
13 ~~substantiated adverse events~~ *hospital acquired conditions*.

14 (c) The commissioner may require additional documentation
15 from an insurer to ensure that any contract authorized under this
16 section shall provide medically necessary care and reimbursement
17 for patients in compliance with this section.

18 (d) For purposes of this section, “health facility” means any
19 health care entity licensed pursuant to subdivision (a), (b), or (f)
20 of Section 1250 of the Health and Safety Code, and a surgical
21 clinic licensed pursuant to paragraph (1) of subdivision (b) of
22 Section 1204 of the Health and Safety Code.

23 ~~SEC. 8.~~

24 *SEC. 6.* Section 12693.56 is added to the Insurance Code, to
25 read:

26 12693.56. (a) For ~~the~~ purposes of this section, “health facility”
27 means a health care entity licensed pursuant to subdivision (a),
28 (b), or (f) of Section 1250 of the Health and Safety Code, and a
29 surgical clinic licensed pursuant to paragraph (1) of subdivision
30 (b) of Section 1204 of the Health and Safety Code.

31 (b) The board shall implement nonpayment policies and
32 practices, alone or in combination, consistent with the regulations
33 adopted pursuant to Section 128871 of the Health and Safety Code,
34 for the program. This subdivision shall be implemented only if,
35 and to the extent that, federal financial participation is available
36 and is not jeopardized.

37 (c) A health facility shall not charge a patient for care and
38 services for which payment is denied by the program, including
39 its participating health, dental, and vision plans.

1 (d) The board may contract with a review organization that
 2 meets all applicable state and federal requirements, including
 3 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
 4 Code, in terms of composition and function, for the purposes of
 5 carrying out the regulations adopted pursuant to Section 128871
 6 of the Health and Safety Code, for the Healthy Families Program
 7 and to the extent feasible, for all other programs administered by
 8 the board.

9 ~~SEC. 9.~~

10 *SEC. 7.* Section 12699.06 is added to the Insurance Code, to
 11 read:

12 12699.06. (a) For ~~the~~ purposes of this part, “health facility”
 13 means a health care entity licensed pursuant to subdivision (a),
 14 (b), or (f) of Section 1250 of the Health and Safety Code, and a
 15 surgical clinic licensed pursuant to paragraph (1) of subdivision
 16 (b) of Section 1204 of the Health and Safety Code.

17 (b) The board shall implement nonpayment policies and
 18 practices, alone or in combination, consistent with the regulations
 19 adopted pursuant to Section 128871 of the Health and Safety Code,
 20 for the program. This subdivision shall be implemented only if,
 21 and to the extent that, federal financial participation is available
 22 and is not jeopardized.

23 (c) A health facility shall not charge a patient for care and
 24 services for which payment is denied by the program, including
 25 its participating health plans.

26 (d) The board may contract with a review organization that
 27 meets all applicable state and federal requirements, including
 28 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
 29 Code, in terms of composition and function, for the purposes of
 30 carrying out the regulations adopted pursuant to Section 128871
 31 of the Health and Safety Code, for the Healthy Families Program
 32 and to the extent feasible, for all other programs administered by
 33 the board.

34 ~~SEC. 10.~~

35 *SEC. 8.* Section 12739.5 is added to the Insurance Code, to
 36 read:

37 12739.5. (a) For ~~the~~ purposes of this part, “health facility”
 38 means a health care entity licensed pursuant to subdivision (a),
 39 (b), or (f) of Section 1250 of the Health and Safety Code, and a

1 surgical clinic licensed pursuant to paragraph (1) of subdivision
2 (b) of Section 1204 of the Health and Safety Code.

3 (b) The board shall implement nonpayment policies and
4 practices, alone or in combination, consistent with the regulations
5 adopted pursuant to Section 128871 of the Health and Safety Code,
6 for the program.

7 (c) A health facility shall not charge a patient for care and
8 services for which payment is denied by the program, including
9 its participating health plans.

10 (d) The board may contract with a review organization that
11 meets all applicable state and federal requirements, including
12 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
13 Code, in terms of composition and function, for the purposes of
14 carrying out the regulations adopted pursuant to Section 128871
15 of the Health and Safety Code, for the Healthy Families Program
16 and to the extent feasible, for all other programs administered by
17 the board.

18 ~~SEC. 11.~~

19 *SEC. 9.* Article 5.4 (commencing with Section 14182) is added
20 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
21 Code, to read:

22

23 Article 5.4. ~~Adverse Events~~*Hospital Acquired Conditions*

24

25 14182. (a) The department shall implement the nonpayment
26 policies and practices adopted by regulations pursuant to Section
27 128871 of the Health and Safety Code, for the fee-for-service
28 Medi-Cal program, and to the extent feasible, for all other programs
29 administered by the department. Medi-Cal managed care plans
30 contracting with the department pursuant to Chapter 7
31 (commencing with Section 14000), Chapter 8 (commencing with
32 Section 14200), or Chapter 8.75 (commencing with Section 14590)
33 of Part 3 of Division 9, shall be required to implement similar
34 nonpayment policies and practices through their contracts with
35 health facilities.

36 (b) A health facility shall not charge a patient for care and
37 services for which payment is denied by the Medi-Cal program or
38 any other program administered by the department pursuant to this
39 article.

1 (c) Notwithstanding any other ~~provision~~ provision of law, and subject to
 2 applicable federal requirements, a health facility shall exclude its
 3 costs related to ~~adverse events~~ *hospital acquired conditions* subject
 4 to the nonpayment policies implemented pursuant to subdivision
 5 (a) from both of the following:

6 (1) The Annual Disclosure Report submitted by the health
 7 facility to the Office of Statewide Health Planning and
 8 Development and which is used in the calculation of payment
 9 adjustments under the Disproportionate Share Hospital Program
 10 pursuant to Article 5.2 (commencing with Section 14166).

11 (2) The Medi-Cal 2552-96 cost report, and any other data,
 12 submitted by the health facility to the department and which is
 13 used for claiming reimbursement from the Safety Net Care Pool
 14 pursuant to Article 5.2 (commencing with Section 14166).

15 (d) This section shall be implemented only if, and to the extent
 16 that, federal financial participation is available and is not
 17 jeopardized for programs receiving federal funds.

18 (e) The department may contract with a review organization
 19 that meets all applicable state and federal requirements, including
 20 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
 21 Code, in terms of composition and function, for the purposes of
 22 carrying out the regulations adopted pursuant to Section 128871
 23 of the Health and Safety Code, for the Medi-Cal program and to
 24 the extent feasible, for all other programs administered by the
 25 department.

26 (f) For purposes of this article, “health facility” means a health
 27 care entity licensed pursuant to subdivision (a), (b), or (f) of Section
 28 1250 of the Health and Safety Code, and a surgical clinic licensed
 29 pursuant to paragraph (1) of subdivision (b) of Section 1204 of
 30 the Health and Safety Code.

31 ~~SEC. 12.~~

32 *SEC. 10.* No reimbursement is required by this act pursuant to
 33 Section 6 of Article XIII B of the California Constitution because
 34 the only costs that may be incurred by a local agency or school
 35 district will be incurred because this act creates a new crime or
 36 infraction, eliminates a crime or infraction, or changes the penalty
 37 for a crime or infraction, within the meaning of Section 17556 of
 38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O