

AMENDED IN SENATE JUNE 23, 2010

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 add Sections *Section 1279.4 and 1371.6 to, and to add Part 5.5 (commencing with Section 128870) to Division 107 of, to 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) 5.5 (commencing with Section 14183) 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. 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.

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.

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

~~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 hospital acquired conditions.~~

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 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 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 hospital acquired condition. the State Department of Health Care Services to convene a technical working group to evaluate options for implementing nonpayment policies and practices for hospital acquired conditions for the fee-for-service Medi-Cal program, as specified. This bill would require the technical working group to provide the best options to the Director of Health Care Services, the Secretary of California Health and Human Services, and the Legislature by February 1, 2011. This bill would also require the department to implement nonpayment policies and procedures for hospital acquired conditions for the fee-for-service Medi-Cal program by July 1, 2011, as specified.~~

~~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.~~

Existing law imposes various functions and duties on the Managed Risk Medical Insurance Board with respect to the regulation and administration of various insurance programs, including the Healthy Families Program.

~~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 hospital acquired conditions~~ *certain managed care plans contracting with the board to implement nonpayment policies and practices for hospital acquired conditions that are consistent with those adopted by the Medi-Cal program through their contracts with health facilities.*

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 a
- 9 hospital acquired condition occurs, a patient can be harmed,
- 10 potentially leading to serious disability or even death.
- 11 (d) Most hospital acquired conditions can be prevented through
- 12 ongoing health care provider education and established safety plans

1 and procedures. It is the policy of the State of California to
2 encourage constant monitoring and continuous improvement in
3 health care quality processes to ensure patient safety.

4 *(e) The recently enacted federal Patient Protection and*
5 *Affordable Care Act (Public Law 111-148) established as a*
6 *national policy that state Medicaid programs should no longer*
7 *pay for hospital acquired conditions.*

8 ~~(e)~~

9 (f) It is the policy of the State of California that patients and
10 purchasers of health care services should not be billed for hospital
11 acquired conditions. It is also the policy of the State of California
12 that hospital acquired conditions should not be reimbursed by
13 patients or purchasers of health care services.

14 ~~(f)~~

15 (g) Patients who have been harmed by a hospital acquired
16 condition must receive the medically necessary followup care to
17 correct or treat the complications or consequences of the hospital
18 acquired condition, to the extent possible. Medically necessary
19 followup care and services should be reimbursed.

20 ~~(g)~~

21 (h) The development of policies and procedures for the
22 nonbilling and nonpayment of hospital acquired conditions is a
23 complex process that requires expertise from many sectors of the
24 health care delivery system. While these policies and procedures
25 are being established, the State of California encourages private
26 sector solutions that bring improvement in the delivery of health
27 care services and a reduction in the occurrence of hospital acquired
28 conditions.

29 SEC. 2. Section 1279.4 is added to the Health and Safety Code,
30 to read:

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

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

38 (2) The outcomes for each patient involved.

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

4 (b) No communication of data or information pursuant to this
5 section by an officer or employee of the corporation to the
6 governing body shall constitute a waiver of privileges preserved
7 by Section 1156, 1156.1, or 1157 of the Evidence Code or Section
8 1370.

9 ~~SEC. 3. Section 1371.6 is added to the Health and Safety Code,~~
10 ~~to read:~~

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

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

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

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

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

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. HOSPITAL ACQUIRED CONDITIONS**
35

36 ~~128870. For purposes of this part, the following definitions~~
37 ~~shall apply:~~

38 ~~(a) "Health facility" means a health care entity licensed pursuant~~
39 ~~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 hospital acquired
22 conditions by state public health programs as follows:

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

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

31 (B) Not present on admission.

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

34 (2) Synchronize definitions, coding, practices, and payment
35 methodologies, to the extent feasible, with CMS regarding
36 nonpayment for hospital acquired conditions.

37 (3) On or before January 1, 2012, and annually thereafter, update
38 payment policies and practices regarding nonpayment for hospital
39 acquired conditions to reflect changes made to those developed
40 and implemented by CMS.

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

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

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

21 ~~128872. In accordance with the nonpayment policies and~~
22 ~~practices adopted by regulation pursuant to Section 128871, a~~
23 ~~health facility shall not charge, nor is a patient or payer required~~
24 ~~to pay, for hospital acquired conditions. When a hospital acquired~~
25 ~~condition occurs, the health facility shall disclose the occurrence~~
26 ~~of the hospital acquired condition to the applicable payer.~~

27 ~~128873. (a) This part shall not be interpreted or implemented~~
28 ~~in a way that would limit patient access to needed health care~~
29 ~~services or payment to a health facility for medically necessary~~
30 ~~followup care to correct or treat the complications or consequences~~
31 ~~of the hospital acquired condition or for the care originally sought~~
32 ~~by the patient.~~

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

37 ~~SEC. 5. Section 10191.5 is added to the Insurance Code, to~~
38 ~~read:~~

39 ~~10191.5. (a) A contract between a health facility and an insurer~~
40 ~~shall be consistent with the adoption, implementation, and exercise~~

1 of nonpayment policies and practices for hospital-acquired
2 conditions as defined by the federal Centers for Medicare and
3 Medicaid Services and the regulations adopted pursuant to Section
4 128871 of the Health and Safety Code.

5 (b) Pursuant to this section, a health facility shall not charge a
6 patient for care and services for which payment is denied by an
7 insurer pursuant to nonpayment policies and practices for hospital
8 acquired conditions.

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

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

18 ~~SEC. 6.~~

19 *SEC. 3.* Section 12693.56 is added to the Insurance Code, to
20 read:

21 12693.56. (a) For purposes of this section, “health facility”
22 means a health care entity licensed pursuant to subdivision (a),
23 (b), or (f) of Section 1250 of the Health and Safety Code, and a
24 surgical clinic licensed pursuant to paragraph (1) of subdivision
25 (b) of Section 1204 of the Health and Safety Code.

26 (b) The board shall implement nonpayment policies and
27 practices, alone or in combination, consistent with the regulations
28 adopted pursuant to Section 128871 of the Health and Safety Code,
29 *practices consistent with those adopted by the Medi-Cal program*
30 *pursuant to Article 5.5 (commencing with Section 14183) of*
31 *Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions*
32 *Code, for the program, by requiring managed care plans*
33 *contracting with the board to implement nonpayment policies and*
34 *practices through their contracts with health facilities. This*
35 subdivision shall be implemented only if, and to the extent that,
36 federal financial participation is available 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.

(d) The board may contract with a review organization that meets all applicable state and federal requirements, including Sections 1320c-1 and 1320c-3 of Title 42 of the United States Code, in terms of composition and function, for the purposes of carrying out the regulations adopted pursuant to Section 128871 of the Health and Safety Code, *nonpayment policies and practices adopted pursuant to Article 5.5 (commencing with Section 14183) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code*, for the Healthy Families Program and to the extent feasible, for all other programs administered by the board.

SEC. 7.

SEC. 4. Section 12699.06 is added to the Insurance Code, to read:

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

(b) The board shall implement nonpayment policies and practices, ~~alone or in combination, consistent with the regulations adopted pursuant to Section 128871 of the Health and Safety Code,~~ *practices consistent with those adopted by the Medi-Cal program pursuant to Article 5.5 (commencing with Section 14183) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code*, for the program, *by requiring managed care plans contracting with the board to implement nonpayment policies and practices through their contracts with health facilities.* This subdivision shall be implemented only if, and to the extent that, federal financial participation is available and is not jeopardized.

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

(d) The board may contract with a review organization that meets all applicable state and federal requirements, including Sections 1320c-1 and 1320c-3 of Title 42 of the United States Code, in terms of composition and function, for the purposes of carrying out the regulations adopted pursuant to Section 128871 of the Health and Safety Code, *nonpayment policies and practices adopted pursuant to Article 5.5 (commencing with Section 14183) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions*

1 Code, for the Healthy Families Program and to the extent feasible,
2 for all other programs administered by the board.

3 ~~SEC. 8.~~

4 *SEC. 5.* Section 12739.5 is added to the Insurance Code, to
5 read:

6 12739.5. (a) For purposes of this part, “health facility” means
7 a health care entity licensed pursuant to subdivision (a), (b), or (f)
8 of Section 1250 of the Health and Safety Code, and a surgical
9 clinic licensed pursuant to paragraph (1) of subdivision (b) of
10 Section 1204 of the Health and Safety Code.

11 (b) The board shall implement nonpayment policies and
12 ~~practices, alone or in combination, consistent with the regulations~~
13 ~~adopted pursuant to Section 128871 of the Health and Safety Code,~~
14 *practices consistent with those adopted by the Medi-Cal program*
15 *pursuant to Article 5.5 (commencing with Section 14183) of*
16 *Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions*
17 *Code, for the program, by requiring managed care plans*
18 *contracting with the board to implement nonpayment policies and*
19 *practices through their contracts with health facilities.*

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

23 (d) The board may contract with a review organization that
24 meets all applicable state and federal requirements, including
25 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
26 Code, in terms of composition and function, for the purposes of
27 carrying out the ~~regulations adopted pursuant to Section 128871~~
28 ~~of the Health and Safety Code~~ *nonpayment policies and practices*
29 *adopted pursuant to Article 5.5 (commencing with Section 14183)*
30 *of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions*
31 *Code, for the Healthy Families Program and to the extent feasible,*
32 *for all other programs administered by the board.*

33 ~~SEC. 9. Article 5.4 (commencing with Section 14182) is added~~
34 ~~to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions~~
35 ~~Code, to read:~~

36
37 ~~Article 5.4. Hospital Acquired Conditions~~

38
39 ~~14182. (a)~~

1 SEC. 6. Article 5.5 (commencing with Section 14183) is added
2 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
3 Code, to read:

4
5 Article 5.5. Hospital Acquired Conditions
6

7 14183. (a) (1) The department shall ~~implement the~~
8 ~~nonpayment policies and practices adopted by regulations pursuant~~
9 ~~to Section 128871 of the Health and Safety Code, for the~~
10 ~~fee-for-service Medi-Cal program, and to the extent feasible, for~~
11 ~~all other programs administered by the department. Medi-Cal~~
12 ~~convene a technical working group to evaluate options for~~
13 ~~implementing nonpayment policies and procedures for hospital~~
14 ~~acquired conditions for the fee-for-service Medi-Cal program~~
15 ~~consistent with federal laws and regulations, including, but not~~
16 ~~limited to, Section 2702 of Subtitle I of Title II of the federal Patient~~
17 ~~Protection and Affordable Care Act (Public Law 111-148). By~~
18 ~~February 1, 2011, the technical working group shall provide~~
19 ~~recommendations to the Director of Health Care Services, the~~
20 ~~Secretary of California Health and Human Services, and the~~
21 ~~Legislature on the best options for implementing nonpayment~~
22 ~~policies and procedures for hospital acquired conditions for the~~
23 ~~fee-for-service Medi-Cal program consistent with federal laws~~
24 ~~and regulations, including, but not limited to, Section 2702 of~~
25 ~~Subtitle I of Title II of the federal Patient Protection and Affordable~~
26 ~~Care Act.~~

27 (2) The technical working group convened pursuant to
28 paragraph (1) shall include, but not be limited to, all of the
29 following:

- 30 (A) Consumer advocates.
31 (B) Experts the department deems necessary for the technical
32 working group to effectively carry out its functions.
33 (C) Pediatricians or physicians in current practice in California
34 who have relevant experience in reducing the incidence of hospital
35 acquired conditions or adverse events.
36 (D) Representatives of children's or other specialty hospitals.
37 (E) Representatives of the department.
38 (F) Representatives of the Department of Managed Health Care.
39 (G) Representatives of health care service plans or health
40 insurers.

1 (H) Representatives of large employers that purchase group
2 health care coverage for their employees and that are neither
3 suppliers nor brokers of health care coverage.

4 (I) Representatives of nonnursing, nonphysician hospital support
5 staff.

6 (J) Representatives of the Office of Statewide Health Planning
7 and Development.

8 (K) Representatives of private hospitals.

9 (L) Representatives of public hospitals.

10 (3) The technical working group may consult with individuals
11 possessing relevant clinical or other health care expertise to assist
12 in the development of the recommendations provided pursuant to
13 this section.

14 (4) The technical working group shall provide an opportunity
15 for members of the public to submit comments to the technical
16 working group.

17 (5) (A) The requirement for submitting a report imposed under
18 this subdivision is inoperative on February 1, 2015, pursuant to
19 Section 10231.5 of the Government Code.

20 (B) A report to be submitted pursuant to this subdivision shall
21 be submitted in compliance with Section 9795 of the Government
22 Code.

23 (b) The department shall implement nonpayment policies and
24 procedures for hospital acquired conditions for the fee-for-service
25 Medi-Cal program by July 1, 2011, that are consistent with federal
26 regulations promulgated pursuant to Section 2702 of Subtitle I of
27 Title II of the federal Patient Protection and Affordable Care Act
28 (Public Law 111-148). In implementing the nonpayment policies
29 and procedures the department shall strongly consider the
30 recommendations submitted pursuant to subdivision (a) by the
31 technical working group.

32 (c) Medi-Cal managed care plans contracting with the
33 department pursuant to Chapter 7 (commencing with Section
34 14000), Chapter 8 (commencing with Section 14200), or Chapter
35 8.75 (commencing with Section 14590) of Part 3 of Division 9,
36 shall be required to implement similar nonpayment policies and
37 practices through their contracts with health facilities.

38 ~~(b)~~

39 (d) A health facility shall not charge a patient for care and
40 services for which payment is denied by the Medi-Cal program or

1 any other program administered by the department pursuant to this
2 article.

3 (e)

4 (e) Notwithstanding any other law, and subject to applicable
5 federal requirements, a health facility shall exclude its costs related
6 to hospital acquired conditions subject to the nonpayment policies
7 implemented pursuant to ~~subdivision (a) this article~~ from both of
8 the following:

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

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

18 ~~(d) This section~~

19 (f) *This article* shall be implemented only if, and to the extent
20 that, federal financial participation is available and is not
21 jeopardized for programs receiving federal funds.

22 (e)

23 (g) The department may contract with a review organization
24 that meets all applicable state and federal requirements, including
25 Sections 1320c-1 and 1320c-3 of Title 42 of the United States
26 Code, in terms of composition and function, for the purposes of
27 ~~carrying out the regulations adopted pursuant to Section 128871~~
28 ~~of the Health and Safety Code, for the Medi-Cal program and to~~
29 ~~the extent feasible, for all other programs administered by the~~
30 ~~department.~~ *carrying out nonpayment policies and practices*
31 *adopted pursuant to this article.*

32 (h) (1) *This article shall not be interpreted or implemented in*
33 *a way that would limit patient access to needed health care services*
34 *or payment to a health facility for medically necessary followup*
35 *care to correct or treat the complications or consequences of a*
36 *hospital acquired condition or for the care originally sought by*
37 *the patient.*

38 (2) *For state and local government health care programs that*
39 *receive federal funds, this article shall be implemented only to the*

1 extent that federal financial participation for those programs is
2 not jeopardized.

3 (i) Nothing in this article shall be construed to authorize the
4 disclosure of confidential information concerning contracted rates
5 between health care providers and payers or another data source.
6 Nothing in this article shall be construed to prevent the disclosure
7 of information on the relative or comparative cost to payers or
8 purchasers of health care services, consistent with the requirements
9 of this article.

10 (j) (1) Patient social security numbers and other data elements
11 that the department determines may be used to determine the
12 identity of an individual patient shall not be deemed public records
13 for purposes of the California Public Records Act (Chapter 3.5
14 (commencing with Section 6250) of Division 7 of Title 1 of the
15 Government Code).

16 (2) No person reporting data pursuant to this article shall be
17 liable for damages in an action based on the use or misuse of
18 patient-identifiable data that has been mailed or otherwise
19 transmitted to the department pursuant to the requirements of this
20 article.

21 (3) No communication of data or information to the department
22 pursuant to this article shall constitute a waiver of privileges
23 preserved pursuant to Sections 1156, 1156.1, and 1157 of the
24 Evidence Code, and Section 1370 of the Health and Safety Code.

25 (4) Information, documents, and records from original sources
26 subject to discovery or introduction into evidence shall not be
27 immune from discovery or evidence because the information,
28 document, or record was also provided to the department pursuant
29 to this article.

30 (f)

31 (k) For purposes of this article, “health facility” means a health
32 care entity licensed pursuant to subdivision (a), (b), or (f) of Section
33 1250 of the Health and Safety Code, and a surgical clinic licensed
34 pursuant to paragraph (1) of subdivision (b) of Section 1204 of
35 the Health and Safety Code.

36 ~~SEC. 10.~~

37 SEC. 7. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O