

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 648

**Introduced by Assembly Member Chesbro
(Coauthor: Assembly Member Swanson)**

February 25, 2009

An act to add *and repeal* Chapter 6.5 (commencing with Section 124871) to Part 4 of Division 106 of the Health and Safety Code, relating to rural hospitals.

LEGISLATIVE COUNSEL'S DIGEST

AB 648, as amended, Chesbro. Rural hospitals: physician services.

Existing law generally provides for the licensure of health facilities, including rural general acute care hospitals, by the State Department of Public Health.

Existing law requires the department to provide expert technical assistance to strategically located, high-risk rural hospitals, as defined, to assist the hospitals in carrying out an assessment of potential business and diversification of service opportunities. Existing law also requires the department to continue to provide regulatory relief when appropriate through program flexibility for such items as staffing, space, and physical plant requirements.

This bill would ~~authorize~~, until January 1, 2020, establish a demonstration project authorizing a rural hospital, as defined, to employ ~~a physician up to 10 physicians and surgeons at one time, except as provided~~, to provide medical services at the rural hospital or other health facility that the rural hospital owns or operates and retain all or part of the income generated by the ~~physician~~ *physicians and surgeons* for ~~these medical services and~~ billed and collected by the rural hospital if

the physician and surgeon in whose name the charges are made approves the charges. ~~It~~ The bill would require a rural hospital that employs a physician and surgeon pursuant to ~~this bill~~ *its provisions* to develop and implement a policy regarding the independent medical judgment of the physician *and surgeon*.

The bill would require these physicians *and surgeons* to biennially sign a specified statement.

The bill would impose various duties on the department and the Medical Board of California *including, not later than January 1, 2019, a requirement that the board deliver a report to the Legislature regarding the demonstration project.*

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many hospitals in the state are having great difficulty
- 4 recruiting and retaining physicians.
- 5 (b) There is a shortage of physicians in communities across
- 6 California, particularly in rural areas, and this shortage limits access
- 7 to health care for Californians in these communities.
- 8 (c) Allowing rural hospitals to directly employ physicians will
- 9 allow rural hospitals to provide economic security adequate for a
- 10 physician to relocate and reside in the communities served by the
- 11 rural hospitals and will help rural hospitals recruit physicians to
- 12 provide medically necessary services in these communities *and*
- 13 *further enhance technological developments such as the adoption*
- 14 *of electronic medical records.*
- 15 (d) Allowing rural hospitals to directly employ physicians will
- 16 provide physicians with the opportunity to focus on the delivery
- 17 of health services to patients without the burden of administrative,
- 18 financial, and operational concerns associated with the
- 19 establishment and maintenance of a medical office, *thereby giving*
- 20 *the physicians a reasonable professional and personal lifestyle.*
- 21 (e) It is the intent of the Legislature by enacting this act to
- 22 ~~authorize~~ *establish a demonstration project authorizing* a rural
- 23 hospital that meets the conditions set forth in Chapter 6.5
- 24 (commencing with Section 124871) of the Health and Safety Code

1 to ~~be able to~~ employ physicians directly and to charge for their
2 professional services.

3 (f) It is the further intent of the Legislature to prevent a rural
4 hospital that employs a physician from interfering with, controlling,
5 or otherwise directing the physician's medical judgment or medical
6 treatment of patients.

7 SEC. 2. Chapter 6.5 (commencing with Section 124871) is
8 added to Part 4 of Division 106 of the Health and Safety Code, to
9 read:

10
11 CHAPTER 6.5. RURAL HOSPITAL PHYSICIAN AND SURGEON
12 SERVICES *DEMONSTRATION PROJECT*
13

14 124871. For purposes of this chapter, a rural hospital means
15 all of the following:

16 (a) A general acute care hospital located in an area designated
17 as nonurban by the United States Census Bureau.

18 (b) A general acute care hospital located in a rural-urban
19 commuting area code of 4 or greater as designated by the United
20 States Department of Agriculture.

21 (c) A rural general acute care hospital, as defined in subdivision
22 (a) of Section 1250.

23 124872. (a) Notwithstanding Article 18 (commencing with
24 Section 2400) of Chapter 5 of Division 2 of the Business and
25 Professions Code *and in addition to other applicable laws*, a rural
26 hospital may employ ~~a physician and surgeon~~ *one or more*
27 *physicians and surgeons, not to exceed 10 physicians and surgeons*
28 *at one time, except as provided in subdivision (b)*, to provide
29 medical services at the rural hospital or other health facility, as
30 defined in Section 1250, that the rural hospital owns or operates.
31 The rural hospital may retain all or part of the income generated
32 by the physician and surgeon ~~for these medical services and billed~~
33 *and collected by the rural hospital, if the physician and surgeon*
34 *in whose name the charges are made approves the charges.*

35 (b) *The total number of licensees employed by the rural hospital*
36 *at one time shall not exceed 10, unless the employment of*
37 *additional physicians and surgeons is deemed appropriate by the*
38 *Medical Board of California on a case-by-case basis. In making*
39 *this determination the board shall take into consideration whether*

1 *access to care is improved for the community served by the hospital*
2 *by increasing the number of physicians and surgeons employed.*

3 124873. (a) A rural hospital that employs a physician and
4 surgeon pursuant to Section 124872 shall develop and implement
5 a written policy to ensure that each employed physician and
6 surgeon exercises his or her independent medical judgment in
7 providing care to patients.

8 (b) Each physician and surgeon employed by a rural hospital
9 pursuant to Section 124872 shall sign a statement biennially
10 indicating that the physician and surgeon:

11 (1) Voluntarily desires to be employed by the hospital.

12 (2) Will exercise independent medical judgment in all matters
13 relating to the provision of medical care to his or her patients.

14 (3) Will report immediately to the Medical Board of California
15 any action or event that the physician and surgeon reasonably and
16 in good faith believes constitutes a compromise of his or her
17 independent medical judgment in providing care to patients in a
18 rural hospital or other health care facility owned or operated by
19 the rural hospital.

20 (c) The signed statement required by subdivision (b) shall be
21 retained by the rural hospital for a period of at least three years.
22 A copy of the signed statement shall be submitted by the rural
23 hospital to the Medical Board of California within 10 working
24 days after the statement is signed by the physician and surgeon.

25 (d) A rural hospital shall not interfere ~~in a physician with,~~
26 *control, or direct a physician's* and surgeon's exercise of his or
27 her independent medical judgment in providing medical care to
28 patients. If, pursuant to a report to the Medical Board of California
29 required by paragraph (3) of subdivision (a), the Medical Board
30 of California believes that a rural hospital has violated this
31 prohibition, the Medical Board of California shall refer the matter
32 to the State Department of Public Health, which shall investigate
33 the matter. If the department ~~believes~~ *concludes* that the rural
34 hospital has violated the prohibition, it shall notify the rural
35 hospital. The rural hospital shall have 20 working days to respond
36 in writing to the department's notification, following which the
37 department shall make a final determination. If the department
38 finds that the rural hospital violated the prohibition, it shall assess
39 a civil penalty of five thousand dollars (\$5,000) for the first
40 violation and twenty-five thousand dollars (\$25,000) for any

1 subsequent violation that occurs within three years of the first
2 violation. If no subsequent violation occurs within three years of
3 the most recent violation, the next civil penalty, if any, shall be
4 assessed at the five thousand dollar (\$5,000) level. If the rural
5 hospital disputes a determination by the department regarding a
6 violation of the prohibition, the rural hospital may request a hearing
7 pursuant to Section 131071. Penalties, if any, shall be paid when
8 all appeals have been exhausted and the department's position has
9 been upheld.

10 *(e) Nothing in this chapter shall exempt a rural hospital from*
11 *a reporting requirement or affect the authority of the board to take*
12 *action against a physician's and surgeon's license.*

13 *124874. (a) Not later than January 1, 2019, the board shall*
14 *deliver a report to the Legislature regarding the demonstration*
15 *project established pursuant to this chapter. The report shall*
16 *include an evaluation of the effectiveness of the demonstration*
17 *project in improving access to health care in rural and medically*
18 *underserved areas and the demonstration project's impact on*
19 *consumer protection as it relates to intrusions into the practice of*
20 *medicine.*

21 *(b) This chapter shall remain in effect only until January 1,*
22 *2020, and as of that date is repealed, unless a later enacted statute,*
23 *that is enacted before January 1, 2020, deletes or extends that*
24 *date.*