

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 832

Introduced by Assembly Member Jones

February 26, 2009

An act to amend Sections 1200, 1204, 1206, and 1248.1 of, and to add Sections 1204.6, *1204.65*, 1212.5, 1212.6, and 1212.7 to, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 832, as amended, Jones. Clinic licensing.

(1) Existing law establishes various programs for the prevention of disease and the promotion of the public health under the jurisdiction of the State Department of Public Health, including, but not limited to, provisions for the licensing, with certain exceptions, of clinics, as defined. A violation of these provisions is a crime.

This bill would exclude a place, establishment, or institution that solely provides immunizations, or screenings for blood pressure, cholesterol, or bone density, or a combination of those services, from the definition of "clinic" for these purposes.

(2) Existing law defines "surgical clinic" as a clinic that provides ambulatory surgical care and is not part of a hospital or is a place that is owned, leased, or operated as a clinic or office by one or more physicians or dentists.

This bill would ~~repeal~~ *revise* that definition, would define "ambulatory surgical care" for this purpose, and would delete the exemption for a place that is owned, leased, or operated by one or more physicians or dentists. The bill would *also* require surgical clinics to be licensed regardless of physician ownership, but would exclude a doctor's office

or other place that ~~provides only prescribed~~ *does not provide ambulatory surgical care services and dental offices that provide only conscious sedation and not general sedation*, and would make conforming changes.

This bill would require any person seeking licensure as a surgical clinic to ~~provide documentation of satisfactory completion of prescribed structural building requirements~~ *meet specified standards*.

This bill would require a surgical clinic that was in operation prior to January 1, 2010, and that is required to become licensed as a result of the passage of the bill to submit a completed application and the required application fee no later than June 30, 2010, but would allow the surgical clinic to remain in operation until the department grants or denies a provisional license.

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

This bill would declare the intent of the Legislature to subsequently appropriate funds to the department as a loan to support the licensing and certification program relating to surgical clinics.

(3) 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. This act shall be known, and may be cited, as the
2 California Outpatient Surgery Patient Safety and Improvement
3 Act.
4 SEC. 2. Section 1200 of the Health and Safety Code is amended
5 to read:
6 1200. As used in this chapter, “clinic” means an organized
7 outpatient health facility that provides direct medical, surgical,
8 dental, optometric, or podiatric advice, services, or treatment to
9 patients who remain less than 24 hours, and which may also
10 provide diagnostic or therapeutic services to patients in the home
11 as an incident to care provided at the clinic facility. Nothing in
12 this section shall be construed to prohibit the provision of nursing
13 services in a clinic licensed pursuant to this chapter. In no case

1 shall a clinic be deemed to be a health facility subject to the
2 provisions of Chapter 2 (commencing with Section 1250) of this
3 division. A place, establishment, or institution that solely provides
4 advice, counseling, information, or referrals on the maintenance
5 of health or on the means and measures to prevent or avoid
6 sickness, disease, or injury, where ~~such~~ *the* advice, counseling,
7 information, or referrals ~~does~~ *do* not constitute the practice of
8 medicine, surgery, dentistry, optometry, or podiatry, shall not be
9 deemed a clinic for purposes of this chapter. A place,
10 establishment, or institution that solely provides immunizations,
11 or screenings for blood pressure, cholesterol, or bone density, or
12 any combination of these services, shall not be deemed a clinic
13 for purposes of this chapter.

14 References in this chapter to “primary care clinics” shall mean
15 and designate all the types of clinics specified in subdivision (a)
16 of Section 1204, including community clinics and free clinics.
17 References in this chapter to specialty clinics shall mean and
18 designate all the types of clinics specified in subdivision (b) of
19 Section 1204, including surgical clinics, chronic dialysis clinics,
20 and rehabilitation clinics.

21 SEC. 3. Section 1204 of the Health and Safety Code is amended
22 to read:

23 1204. Clinics eligible for licensure pursuant to this chapter are
24 primary care clinics and specialty clinics.

25 (a) (1) Only the following defined classes of primary care
26 clinics shall be eligible for licensure:

27 (A) A “community clinic” means a clinic operated by a
28 tax-exempt nonprofit corporation that is supported and maintained
29 in whole or in part by donations, bequests, gifts, grants, government
30 funds or contributions, that may be in the form of money, goods,
31 or services. In a community clinic, any charges to the patient shall
32 be based on the patient’s ability to pay, utilizing a sliding fee scale.
33 No corporation other than a nonprofit corporation, exempt from
34 federal income taxation under paragraph (3) of subsection (c) of
35 Section 501 of the Internal Revenue Code of 1954 as amended, or
36 a statutory successor thereof, shall operate a community clinic;
37 provided, that the licensee of any community clinic so licensed on
38 the effective date of this section shall not be required to obtain
39 tax-exempt status under either federal or state law in order to be

1 eligible for, or as a condition of, renewal of its license. No natural
 2 person or persons shall operate a community clinic.

3 (B) A “free clinic” means a clinic operated by a tax-exempt,
 4 nonprofit corporation supported in whole or in part by voluntary
 5 donations, bequests, gifts, grants, government funds or
 6 contributions, that may be in the form of money, goods, or services.
 7 In a free clinic there shall be no charges directly to the patient for
 8 services rendered or for drugs, medicines, appliances, or
 9 apparatuses furnished. No corporation other than a nonprofit
 10 corporation exempt from federal income taxation under paragraph
 11 (3) of subsection (c) of Section 501 of the Internal Revenue Code
 12 of 1954 as amended, or a statutory successor thereof, shall operate
 13 a free clinic; provided, that the licensee of any free clinic so
 14 licensed on the effective date of this section shall not be required
 15 to obtain tax-exempt status under either federal or state law in
 16 order to be eligible for, or as a condition of, renewal of its license.
 17 No natural person or persons shall operate a free clinic.

18 (2) Nothing in this subdivision shall prohibit a community clinic
 19 or a free clinic from providing services to patients whose services
 20 are reimbursed by third-party payers, or from entering into
 21 managed care contracts for services provided to private or public
 22 health plan subscribers, as long as the clinic meets the requirements
 23 identified in subparagraphs (A) and (B). For purposes of this
 24 subdivision, any payments made to a community clinic by a
 25 third-party payer, including, but not limited to, a health care service
 26 plan, shall not constitute a charge to the patient. This paragraph is
 27 a clarification of existing law.

28 (b) The following types of specialty clinics shall be eligible for
 29 licensure as specialty clinics pursuant to this chapter:

30 (1) A “surgical clinic” means a clinic that is not part of a hospital
 31 or a primary care clinic that is either licensed pursuant to this
 32 section, or exempt pursuant to subdivision (b) of Section 1206,
 33 and that provides ambulatory surgical care as defined in Section
 34 1204.6 for patients who remain less than 24 hours. Surgical clinics
 35 shall be subject to licensure by the department regardless of
 36 physician ownership.

37 (2) A “chronic dialysis clinic” means a clinic that provides less
 38 than 24-hour care for the treatment of patients with end-stage renal
 39 disease, including renal dialysis services.

1 (3) A “rehabilitation clinic” means a clinic that, in addition to
2 providing medical services directly, also provides physical
3 rehabilitation services for patients who remain less than 24 hours.
4 Rehabilitation clinics shall provide at least two of the following
5 rehabilitation services: physical therapy, occupational therapy,
6 social, speech pathology, and audiology services. A rehabilitation
7 clinic does not include the offices of a private physician in
8 individual or group practice.

9 (4) An “alternative birth center” means a clinic that is not part
10 of a hospital and that provides comprehensive perinatal services
11 and delivery care to pregnant women who remain less than 24
12 hours at the facility.

13 (c) In accordance with subdivision (d) of Section 1248.1,
14 licensure as a surgical clinic shall satisfy the requirements of
15 Chapter 1.3 (commencing with Section 1248).

16 SEC. 4. Section 1204.6 is added to the Health and Safety Code,
17 to read:

18 1204.6. (a) “Ambulatory surgical care” for purposes of
19 licensure as a surgical clinic, means the incision, partial or complete
20 excision, destruction, resection, or other structural alteration of
21 human tissue by any means except any of the following:

22 (1) Minor skin repair procedures, including, but not limited to,
23 any of the following:

24 (A) Repair of minor lacerations.

25 (B) Excision of moles, warts, or other minor skin lesions.

26 (C) Incision and drainage of superficial abscesses.

27 (2) Procedures using only local anesthesia, topical anesthesia,
28 or no anesthesia.

29 (3) Procedures not using general anesthesia or conscious
30 sedation.

31 (b) “General anesthesia” for purposes of licensure as a surgical
32 clinic, means a controlled state of depressed consciousness or
33 unconsciousness, accompanied by partial or complete loss of
34 protective reflexes, produced by a pharmacologic or
35 nonpharmacologic method, or a combination thereof.

36 (c) “Conscious sedation” for purposes of licensure as a surgical
37 clinic, means a minimally depressed level of consciousness
38 produced by a pharmacologic or nonpharmacologic method, or a
39 combination thereof, that retains the patient’s ability to maintain
40 independently and continuously an airway, and respond

1 appropriately to physical stimulation or verbal command.
 2 Conscious sedation does not include the administration of oral
 3 medications or the administration of a mixture of nitrous oxide
 4 and oxygen, whether administered alone or in combination with
 5 each other.

6 (d) A doctor’s office or other place, establishment, or institution
 7 ~~that provides no surgical services~~ *does not provide ambulatory*
 8 *surgical care, as defined in subdivision (a), other than those the*
 9 *exceptions described in paragraphs (1), (2), and (3) of subdivision*
 10 *(a), shall not be required to obtain licensure as a surgical clinic.*

11 (e) *A dental office or other place, establishment, or institution*
 12 *that does not use general anesthesia but does use conscious*
 13 *sedation, with a permit issued pursuant to Article 2.8 (commencing*
 14 *with Section 1647) of Chapter 4 of Division 2 of the Business and*
 15 *Professions Code, shall not be required to obtain licensure as a*
 16 *surgical clinic.*

17 *SEC. 5. Section 1204.65 is added to the Health and Safety*
 18 *Code, to read:*

19 *1204.65. A surgical clinic that was in operation prior to*
 20 *January 1, 2010, and is required to become licensed due to the*
 21 *enactment of Section 1204.6 and the amendments to Section 1206,*
 22 *as contained in the act adding this section, shall submit a*
 23 *completed application for licensure as a surgical clinic,*
 24 *accompanied by the required application fee, not later than June*
 25 *30, 2010, but may continue to operate as a surgical clinic until*
 26 *the department conducts a licensing visit and grants or denies a*
 27 *provisional license pursuant to Sections 1219 or 1219.1. A surgical*
 28 *clinic that is denied a license shall cease operating immediately*
 29 *upon receipt of the denial.*

30 ~~SEC. 5.~~

31 *SEC. 6. Section 1206 of the Health and Safety Code is amended*
 32 *to read:*

33 *1206. The requirement of licensure and other requirements of*
 34 *this chapter do not apply to any of the following:*

35 (a) *Any place or establishment owned or leased and operated*
 36 *as a clinic or office by one or more licensed health care*
 37 *practitioners and used by the practitioner as an office for the*
 38 *practice of his or her profession, within the scope of his or her*
 39 *license in any lawful form of organization, so long as each licensed*
 40 ~~*health care practitioner who practices at the clinic has some*~~

1 ~~ownership or leasehold interest in, and some degree of control~~
2 ~~over and responsibility for, the operation of the clinic, regardless~~
3 ~~of the~~ *unless the clinic or office is providing ambulatory surgical*
4 *services, as defined in subdivision (a) of Section 1204.6, other*
5 *than the exceptions described in paragraphs (1), (2), and (3) of*
6 *subdivision (a) of Section 1204.6, regardless of the name used*
7 publicly to identify the place or establishment. The exemption
8 pursuant to this subdivision shall not apply to either of the
9 following:

10 (1) Any surgical clinic as described in paragraph (1) of
11 subdivision (b) of Section 1204, regardless of any health care
12 practitioner ownership interest in the clinic.

13 (2) Any chronic dialysis clinic as described in paragraph (2) of
14 subdivision (b) of Section 1204.

15 (b) Any clinic directly conducted, maintained, or operated by
16 the United States or by any of its departments, officers, or agencies,
17 and any primary care clinic specified in subdivision (a) of Section
18 1204 that is directly conducted, maintained, or operated by this
19 state or by any of its political subdivisions or districts, or by any
20 city. Nothing in this subdivision precludes the state department
21 from adopting regulations that utilize clinic licensing standards as
22 eligibility criteria for participation in programs funded wholly or
23 partially under Title XVIII or XIX of the federal Social Security
24 Act.

25 (c) Any clinic conducted, maintained, or operated by a federally
26 recognized Indian tribe or tribal organization, as defined in Section
27 450 or 1601 of Title 25 of the United States Code, that is located
28 on land recognized as tribal land by the federal government.

29 (d) Clinics conducted, operated, or maintained as outpatient
30 departments of hospitals.

31 (e) Any facility licensed as a health facility under Chapter 2
32 (commencing with Section 1250).

33 (f) Any freestanding clinical or pathological laboratory licensed
34 under Chapter 3 (commencing with Section 1200) of Division 2
35 of the Business and Professions Code.

36 (g) A clinic operated by, or affiliated with, any institution of
37 learning that teaches a recognized healing art and is approved by
38 the state board or commission vested with responsibility for
39 regulation of the practice of that healing art. The exemption

1 pursuant to this subdivision shall not apply to any surgical clinic
2 as described in paragraph (1) of subdivision (b) of Section 1204.

3 (h) A clinic that is operated by a primary care community or
4 free clinic and that is operated on separate premises from the
5 licensed clinic and is only open for limited services of no more
6 than 20 hours a week. An intermittent clinic as described in this
7 subdivision shall, however, meet all other requirements of law,
8 including administrative regulations and requirements, pertaining
9 to fire and life safety.

10 (i) The offices of physicians in group practice who provide a
11 preponderance of their services to members of a comprehensive
12 group practice prepayment health care service plan subject to
13 Chapter 2.2 (commencing with Section 1340).

14 (j) Student health centers operated by public institutions of
15 higher education.

16 (k) Nonprofit speech and hearing centers, as defined in Section
17 1201.5. Any nonprofit speech and hearing clinic desiring an
18 exemption under this subdivision shall make application therefor
19 to the director, who shall grant the exemption to any facility
20 meeting the criteria of Section 1201.5. Notwithstanding the
21 licensure exemption contained in this subdivision, a nonprofit
22 speech and hearing center shall be deemed to be an organized
23 outpatient clinic for purposes of qualifying for reimbursement as
24 a rehabilitation center under the Medi-Cal Act (Chapter 7
25 (commencing with Section 14000) of Part 3 of Division 9 of the
26 Welfare and Institutions Code).

27 (l) A clinic operated by a nonprofit corporation exempt from
28 federal income taxation under paragraph (3) of subsection (c) of
29 Section 501 of the Internal Revenue Code of 1954, as amended,
30 or a statutory successor thereof, that conducts medical research
31 and health education and provides health care to its patients through
32 a group of 40 or more physicians and surgeons, who are
33 independent contractors representing not less than 10
34 board-certified specialties, and not less than two-thirds of whom
35 practice on a full-time basis at the clinic.

36 (m) Any clinic, limited to in vivo diagnostic services by
37 magnetic resonance imaging functions or radiological services
38 under the direct and immediate supervision of a physician and
39 surgeon who is licensed to practice in California. This shall not

1 be construed to permit cardiac catheterization or any treatment
2 modality in these clinics.

3 (n) A clinic operated by an employer or jointly by two or more
4 employers for their employees only, or by a group of employees,
5 or jointly by employees and employers, without profit to the
6 operators thereof or to any other person, for the prevention and
7 treatment of accidental injuries to, and the care of the health of,
8 the employees comprising the group.

9 (o) A community mental health center, as defined in Section
10 5601.5 of the Welfare and Institutions Code.

11 (p) (1) A clinic operated by a nonprofit corporation exempt
12 from federal income taxation under paragraph (3) of subsection
13 (c) of Section 501 of the Internal Revenue Code of 1954, as
14 amended, or a statutory successor thereof, as an entity organized
15 and operated exclusively for scientific and charitable purposes and
16 that satisfied all of the following requirements on or before January
17 1, 2005:

18 (A) Commenced conducting medical research on or before
19 January 1, 1982, and continues to conduct medical research.

20 (B) Conducted research in, among other areas, prostatic cancer,
21 cardiovascular disease, electronic neural prosthetic devices,
22 biological effects and medical uses of lasers, and human magnetic
23 resonance imaging and spectroscopy.

24 (C) Sponsored publication of at least 200 medical research
25 articles in peer-reviewed publications.

26 (D) Received grants and contracts from the National Institutes
27 of Health.

28 (E) Held and licensed patents on medical technology.

29 (F) Received charitable contributions and bequests totaling at
30 least five million dollars (\$5,000,000).

31 (G) Provides health care services to patients only:

32 (i) In conjunction with research being conducted on procedures
33 or applications not approved or only partially approved for payment
34 (I) under the Medicare program pursuant to Section 1359y(a)(1)(A)
35 of Title 42 of the United States Code, or (II) by a health care service
36 plan registered under Chapter 2.2 (commencing with Section 1340),
37 or a disability insurer regulated under Chapter 1 (commencing
38 with Section 10110) of Part 2 of Division 2 of the Insurance Code;
39 provided that services may be provided by the clinic for an
40 additional period of up to three years following the approvals, but

1 only to the extent necessary to maintain clinical expertise in the
2 procedure or application for purposes of actively providing training
3 in the procedure or application for physicians and surgeons
4 unrelated to the clinic.

5 (ii) Through physicians and surgeons who, in the aggregate,
6 devote no more than 30 percent of their professional time for the
7 entity operating the clinic, on an annual basis, to direct patient care
8 activities for which charges for professional services are paid.

9 (H) Makes available to the public the general results of its
10 research activities on at least an annual basis, subject to good faith
11 protection of proprietary rights in its intellectual property.

12 (I) Is a freestanding clinic, whose operations under this
13 subdivision are not conducted in conjunction with any affiliated
14 or associated health clinic or facility defined under this division,
15 except a clinic exempt from licensure under subdivision (m). For
16 purposes of this subparagraph, a freestanding clinic is defined as
17 “affiliated” only if it directly, or indirectly through one or more
18 intermediaries, controls, or is controlled by, or is under common
19 control with, a clinic or health facility defined under this division,
20 except a clinic exempt from licensure under subdivision (m). For
21 purposes of this subparagraph, a freestanding clinic is defined as
22 “associated” only if more than 20 percent of the directors or trustees
23 of the clinic are also the directors or trustees of any individual
24 clinic or health facility defined under this division, except a clinic
25 exempt from licensure under subdivision (m). Any activity by a
26 clinic under this subdivision in connection with an affiliated or
27 associated entity shall fully comply with the requirements of this
28 subdivision. This subparagraph shall not apply to agreements
29 between a clinic and any entity for purposes of coordinating
30 medical research.

31 (2) By January 1, 2007, and every five years thereafter, the
32 Legislature shall receive a report from each clinic meeting the
33 criteria of this subdivision and any other interested party
34 concerning the operation of the clinic’s activities. The report shall
35 include, but not be limited to, an evaluation of how the clinic
36 impacted competition in the relevant health care market, and a
37 detailed description of the clinic’s research results and the level
38 of acceptance by the payer community of the procedures performed
39 at the clinic. The report shall also include a description of
40 procedures performed both in clinics governed by this subdivision

1 and those performed in other settings. The cost of preparing the
2 reports shall be borne by the clinics that are required to submit
3 them to the Legislature pursuant to this paragraph.

4 ~~SEC. 6.~~

5 *SEC. 7.* Section 1212.5 is added to the Health and Safety Code,
6 to read:

7 ~~1212.5. (a) Commencing January 1, 2010, in addition to other~~
8 ~~licensing requirements of this chapter, any person, firm,~~
9 ~~association, partnership, or corporation seeking a license for a~~
10 ~~surgical clinic shall provide the department with documentation~~
11 ~~of satisfactory completion of the structural and building~~
12 ~~requirements set forth in Section 1226 of Title 24 of the California~~
13 ~~Code of Regulations, or compliance with the 2000 Medicare Life~~
14 ~~and Safety Code requirements.~~

15 ~~(b)~~

16 *1212.5. (a)* Commencing January 1, 2010, a surgical clinic
17 shall also meet all of the following standards:

18 ~~(1) Only those patients who have given full informed consent~~
19 ~~about the inherent risks of receiving surgery in facilities with~~
20 ~~limited post surgical rescue potential that would be available in a~~
21 ~~general acute care hospital shall receive services in the surgical~~
22 ~~clinic.~~

23 ~~(2)~~

24 *(1)* Comply with the conditions of coverage as set forth in
25 Subpart C of Part 416 of Title 42 of the Code of Federal
26 Regulations, as those conditions exist on January 1, 2008. The
27 conditions of coverage shall be conditions of providing services
28 regardless of the source of payment for those services.

29 ~~(3)~~

30 *(2)* Limit surgical procedures to those that comply with all of
31 the following:

32 *(A)* Do not require the presence of more than one surgeon during
33 the procedure.

34 *(B)* Are not expected to require a blood transfusion.

35 *(C)* Are not expected to require major or prolonged invasion of
36 body cavities.

37 *(D)* Are not expected to involve major blood vessels.

38 *(E)* Are not inherently life threatening.

39 *(F)* Are not emergency surgeries.

40 *(G)* Are not experimental surgeries.

1 ~~(4)~~

2 (3) A preanesthesia evaluation, including an ASA Physical
3 Status Classification, shall be completed on all surgical anesthesia
4 patients. Surgical procedures shall not be performed on a patient
5 with severe systemic disease that is a constant threat to life (ASA
6 Classification 4) or on a moribund patient who is not expected to
7 survive for 24 hours without the operation (ASA Classification
8 5). A patient with severe systemic disease (ASA Classification 3)
9 shall have a presurgical consultation with a physician specialist
10 appropriate for the patient's severe systemic disease in order to
11 obtain medical clearance for surgery.

12 ~~(5)~~

13 (4) Establish and implement policies and procedures compliant
14 with the conditions of coverage. The policies and procedures shall
15 comply with both of the following:

16 (A) The policies and procedures shall include, but need not be
17 limited to, all of the following:

18 (i) Surgical services, as provided by physicians, ~~dentists,~~ or
19 podiatrists.

20 (ii) Anesthesia services.

21 (iii) Nursing services.

22 (iv) Evaluation of quality assessment and performance
23 improvement.

24 (v) Infection control.

25 (vi) Pharmaceutical services.

26 (vii) Laboratory and radiology services.

27 (viii) Housekeeping services, including provisions for
28 maintenance of a safe, clean environment.

29 (ix) Patient health records, including provisions that shall be
30 developed with the assistance of a person skilled in record
31 maintenance and preservation.

32 (x) Personnel policies and procedures.

33 (B) The policies and procedures shall provide for appropriate
34 staffing ratios for all care provided to patients receiving general
35 anesthesia in compliance with both of the following:

36 (i) In each surgical room there shall be at least one registered
37 nurse assigned to the duties of the circulating nurse and a minimum
38 of one additional person serving as scrub assistant for each
39 patient-occupied operating room. The scrub assistant may be a
40 licensed nurse, an operating room technician, or other person who

1 has demonstrated current competence to the clinic as a scrub
2 assistant, but shall not be a physician or other licensed health
3 professional who is assisting in the performance of surgery.

4 (ii) The licensed nurse-to-patient ratio in a postanesthesia
5 recovery unit of the anesthesia service shall be one-to-two or fewer
6 at all times, regardless of the type of general anesthesia the patient
7 receives.

8 (b) *A clinic licensed pursuant to this section shall be subject to*
9 *the requirements of Section 1280.15.*

10 ~~SEC. 7.~~

11 *SEC. 8.* Section 1212.6 is added to the Health and Safety Code,
12 to read:

13 1212.6. Every clinic for which a license has been issued under
14 Section 1212.5 shall be subject to the reporting requirements
15 contained in Section 1279.1 and the penalties imposed under
16 Sections 1280.1, 1280.3, and 1280.4.

17 ~~SEC. 8.~~

18 *SEC. 9.* Section 1212.7 is added to the Health and Safety Code,
19 to read:

20 1212.7. It is the intent of the Legislature to provide funding
21 through an appropriation in the Budget Act or other measure to
22 the State Department of Public Health, for a loan for the support
23 the operations of the Licensing and Certification Program for
24 activities authorized by this chapter relating to the licensure of
25 surgical clinics. The loan shall be repaid with proceeds from fees
26 collected pursuant to Section 1266. *The department shall implement*
27 *the provisions of this chapter relating to the licensure of surgical*
28 *clinics to the extent resources are provided.*

29 ~~SEC. 9.~~

30 *SEC. 10.* Section 1248.1 of the Health and Safety Code is
31 amended to read:

32 1248.1. No association, corporation, firm, partnership, or person
33 shall operate, manage, conduct, or maintain an outpatient setting
34 in this state, unless the setting is one of the following:

35 (a) An ambulatory surgical center that is certified to participate
36 in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395
37 et seq.) of the federal Social Security Act.

38 (b) ~~Any~~ A clinic conducted, maintained, or operated by a
39 federally recognized Indian tribe or tribal organization, as defined

1 in Section 450 or 1601 of Title 25 of the United States Code, and
2 located on land recognized as tribal land by the federal government.

3 (c) ~~Any~~A clinic directly conducted, maintained, or operated by
4 the United States or by any of its departments, officers, or agencies.

5 (d) ~~Any~~A primary care clinic licensed under subdivision (a)
6 and ~~any~~ a surgical clinic licensed under subdivision (b) of Section
7 1204.

8 (e) ~~Any~~A health facility licensed as a general acute care hospital
9 under Chapter 2 (commencing with Section 1250).

10 (f) ~~Any~~An outpatient setting to the extent that it is used by a
11 dentist or physician and surgeon in compliance with Article 2.7
12 (commencing with Section 1646) or Article 2.8 (commencing with
13 Section 1647) of Chapter 4 of Division 2 of the Business and
14 Professions Code.

15 (g) An outpatient setting accredited by an accreditation agency
16 approved by the division pursuant to this chapter.

17 (h) A setting, including, but not limited to, a mobile van, in
18 which equipment is used to treat patients admitted to a facility
19 described in subdivision (a), (d), or (e), and in which the procedures
20 performed are staffed by the medical staff of, or other healthcare
21 practitioners with clinical privileges at, the facility and are subject
22 to the peer review process of the facility but which setting is not
23 a part of a facility described in subdivision (a), (d), or (e).

24 Nothing in this section shall relieve an association, corporation,
25 firm, partnership, or person from complying with all other
26 provisions of law that are otherwise applicable, including, but not
27 limited to, licensure as a primary care or specialty clinic as set
28 forth in Chapter 1 (commencing with Section 1200) of Division
29 2 of the Health and Safety Code. Surgical clinics shall be subject
30 to licensure regardless of any physician ownership interest.

31 ~~SEC. 10.~~

32 *SEC. 11.* 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