

Introduced by Senator DuchenyFebruary 26, 2009

An act to amend Sections 1200, 1207, 1212, 1213, 1214, 1216, 1219, and 1221 of, and to add Section 1212.5 to, the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

SB 442, as introduced, Ducheny. Clinic corporation: licensing.

Under existing law, the State Department of Public Health is responsible for the licensing and regulation of clinics, as defined. A violation of these provisions is a crime.

This bill would define "clinic corporation" as a nonprofit organization that owns one or more primary care clinics, as defined, and would provide for a single, consolidated license for corporation clinics, as specified.

Existing law provides for a fee to be paid for an initial license, renewal license, license upon change of ownership, or special permit set at specified amounts.

This bill would set the fee for a clinic corporation at a percentage of the fee for primary care clinics for each clinic site. The bill would also make conforming changes to the licensing provisions. Because this bill would create a new crime, it imposes a state-mandated local program.

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. Section 1200 of the Health and Safety Code is
2 amended to read:

3 1200. (a) As used in this chapter, “clinic” means an organized
4 outpatient health facility—~~which~~ *that* provides direct medical,
5 surgical, dental, optometric, or podiatric advice, services, or
6 treatment to patients who remain less than 24 hours, and—~~which~~
7 *that* may also provide diagnostic or therapeutic services to patients
8 in the home as an incident to care provided at the clinic facility.
9 Nothing in this section shall be construed to prohibit the provision
10 of nursing services in a clinic licensed pursuant to this chapter. In
11 no case shall a clinic be deemed to be a health facility subject to
12 the provisions of Chapter 2 (commencing with Section 1250)—~~of~~
13 ~~this division~~. A place, establishment, or institution—~~which~~ *that*
14 solely provides advice, counseling, information, or referrals on
15 the maintenance of health or on the means and measures to prevent
16 or avoid sickness, disease, or injury, where—~~such~~ *that* advice,
17 counseling, information, or ~~referrals~~ *referral* does not constitute
18 the practice of medicine, surgery, dentistry, optometry, or podiatry,
19 shall not be deemed a clinic for purposes of this chapter.

20 ~~References in this chapter to “primary~~

21 *(b) For purposes of this chapter:*

22 *(1) “Primary care clinics”*—~~shall mean and designate~~ *means* all
23 the types of clinics specified in subdivision (a) of Section 1204,
24 including community clinics and free clinics.—~~References in this~~
25 ~~chapter to specialty clinics shall mean and designate~~ all

26 *(2) “Specialty clinics” means* all the types of clinics specified
27 in subdivision (b) of Section 1204, including surgical clinics,
28 chronic dialysis clinics, and rehabilitation clinics.

29 *(3) “Clinic corporation” means* a nonprofit organization that
30 operates one or more primary care clinics, as defined in
31 paragraphs (1) and (2) of subdivision (a) of Section 1204, which
32 are required to be licensed under Section 1205, including a mobile
33 health care unit licensed or approved pursuant to the Mobile
34 Health Care Services Act (Chapter 9 (commencing with Section
35 1765.101)). “Clinic corporation” shall not mean a health facility,
36 as described in Section 1250 or subdivision (b) of Section 32000.1,
37 a health care district, as described in subdivision (a) of Section
38 32000.1, or a person or public or private entity that operates,

1 *establishes, manages, conducts, or maintains clinics that are*
2 *exempt from licensure pursuant to Section 1206, except that a*
3 *clinic corporation may operate one or more intermittent clinics,*
4 *as described in subdivision (b) of Section 1206, in addition to*
5 *licensed primary care clinics. Except for Section 1205.5, 1206,*
6 *1206.1, or 1218.1, any section in this chapter that refers to a*
7 *“primary care clinic,” “clinic,” or “licensed clinic” for the*
8 *purposes of licensing, special permits, inspection, or data*
9 *collection shall also apply to a clinic corporation.*

10 (4) “Department” means the Licensing and Certification
11 Division of the State Department of Public Health, or its successor.

12 SEC. 2. Section 1207 of the Health and Safety Code is amended
13 to read:

14 1207. The state department shall inspect and license clinics
15 and clinic corporations, and shall inspect and approve clinics and
16 clinic corporations to offer special services. *Nothing in this section*
17 *shall be interpreted to require a clinic corporation to apply for a*
18 *single consolidated license pursuant to Section 1212.5.*

19 SEC. 3. Section 1212 of the Health and Safety Code is amended
20 to read:

21 1212. (a) ~~Any~~A person, firm, association, partnership, or
22 corporation desiring a license for a clinic or a special permit for
23 special services under the provisions of this chapter, shall file with
24 the department a verified application on forms prescribed and
25 furnished by the department, containing the following:

26 (1) Evidence satisfactory to the department that the applicant
27 is of reputable and responsible character. If the applicant is a firm,
28 association, partnership, trust, corporation, or other artificial or
29 legal entity, like evidence shall be submitted as to the members,
30 partners, trustees or shareholders, directors, and officers thereof
31 and as to the person who is to be the administrator of, and exercise
32 control, management, and direction of the clinic for which
33 application is made.

34 (2) If the applicant is a partnership, the name and principal
35 business address of each partner, and, if any partner is a
36 corporation, the name and principal business address of each officer
37 and director of the corporation and name and business address of
38 each stockholder owning 10 percent or more of the stock thereof.

39 (3) If the applicant is a corporation, the name and principal
40 business address of each officer and director of the corporation,

1 and where the applicant is a stock corporation, the name and
2 principal business address of each stockholder holding 10 percent
3 or more of the applicant’s stock and, where any stockholder is a
4 corporation, the name and principal business address of each officer
5 and director of the corporate stockholder.

6 (4) Evidence satisfactory to the department of the ability of the
7 applicant to comply with the provisions of this chapter and rules
8 and regulations promulgated under this chapter by the department.

9 (5) The name and address of the clinic, and if the applicant is
10 a professional corporation, firm, partnership, or other form of
11 organization, evidence that the applicant has complied with the
12 requirements of the Business and Professions Code governing the
13 use of fictitious names by practitioners of the healing arts. *If the*
14 *applicant is a clinic corporation, the name and address of each*
15 *primary care clinic to be included on the license.*

16 (6) The name and address of the professional licentiate
17 responsible for the professional activities of the clinic and the
18 licentiate’s license number and professional experience.

19 (7) The class of clinic to be operated, the character and scope
20 of advice and treatment to be provided, and a complete description
21 of the building, its location, facilities, equipment, apparatus, and
22 appliances to be furnished and used in the operation of the clinic.

23 (8) Sufficient operational data to allow the department to
24 determine the class of clinic that the applicant proposes to operate
25 and the initial license fee to be charged.

26 (9) Any other information as may be required by the department
27 for the proper administration and enforcement of this chapter,
28 including, but not limited to, evidence that the clinic has a written
29 policy relating to the dissemination of the following information
30 to patients:

31 (A) A summary of current state laws requiring child passenger
32 restraint systems to be used when transporting children in motor
33 vehicles.

34 (B) A listing of child passenger restraint system programs
35 located within the county, as required by Section 27360 or 27362
36 of the Vehicle Code.

37 (C) Information describing the risks of death or serious injury
38 associated with the failure to utilize a child passenger restraint
39 system.

1 (b) (1) No application is required where a licensed primary
2 care clinic adds a service that is not a special service, as defined
3 in Section 1203, or any regulation adopted thereunder, or remodels
4 or modifies an existing primary care clinic site. However, the clinic
5 shall notify the department, in writing, of the change in service or
6 physical plant no less than 60 days prior to adding the service or
7 remodeling or modifying an existing primary care clinic site.
8 Nothing in this subdivision shall be construed to limit the authority
9 of the department to conduct an inspection at any time pursuant
10 to Section 1227, in order to ensure compliance with, or to prevent
11 a violation of, this chapter, or any regulation adopted under this
12 chapter.

13 (2) Where applicable city, county, or state law obligates the
14 primary care clinic to obtain a building permit with respect to the
15 remodeling or modification to be performed by the clinic, the
16 primary care clinic shall provide a signed certification or statement
17 as described in Section 1226.3 to the department within 60 days
18 following completion of the remodeling or modification project
19 covered by the building permit.

20 (c) In the course of fulfilling its obligations under Section
21 1221.09, the department shall ensure that any application form
22 utilized by a primary care clinic, requiring information of the type
23 specified in paragraph (1), (4), (8), or (9) of subdivision (a), is
24 consistent with the requirements of Section 1225, including the
25 requirement that rules and regulations for primary care clinics be
26 separate and distinct from the rules and regulations for specialty
27 clinics. Nothing in this section shall be construed to require the
28 department to issue a separate application form for primary care
29 clinics.

30 SEC. 4. Section 1212.5 is added to the Health and Safety Code,
31 to read:

32 1212.5. (a) The department, upon application of a clinic
33 corporation that meets the requirements of Section 1212 and other
34 applicable requirements of licensure, shall issue a single
35 consolidated license to a clinic corporation that operates more than
36 one primary care clinic, as defined in paragraphs (1) and (2) of
37 subdivision (a) of Section 1204, including any mobile unit licensed
38 under the Mobile Health Care Services Act (Chapter 9
39 (commencing with Section 1765.101)).

1 (b) Eligibility for the issuance of a single consolidated license
2 shall be based on the following criteria:

3 (1) There is a single governing body for all primary care clinics
4 maintained and operated by the licensee.

5 (2) There are one or more medical directors operating under a
6 single set of policies, procedures, and standards for all the primary
7 care clinics maintained and operated by the licensee.

8 (c) In issuing the single consolidated license, the department
9 shall specify the name, location, hours of operation, and services
10 of each clinic included in the license.

11 (d) A clinic corporation that is issued a single consolidated
12 license may, at its discretion, consolidate the administrative
13 functions set out in Section 1218.2 for all clinics that are subject
14 to the single consolidated license.

15 SEC. 5. Section 1213 of the Health and Safety Code is amended
16 to read:

17 1213. Any person, firm, association, partnership, corporation,
18 or other legal entity desiring a license for a clinic shall be exempt
19 from the requirements of Chapter 2 (commencing with Section
20 ~~15000~~ 16000) of Division 12.5.

21 SEC. 6. Section 1214 of the Health and Safety Code is amended
22 to read:

23 1214. Each application under this chapter for an initial license,
24 renewal license, license upon change of ownership, or special
25 permit shall be accompanied by a Licensing and Certification
26 Program fee, as follows:

27 (a) For all primary care clinics licensed pursuant to this chapter,
28 the annual fee shall be set in accordance with Section 1266.

29 (b) For all specialty clinics licensed pursuant to this chapter,
30 the annual fee shall be set in accordance with Section 1266.

31 (c) For all rehabilitation clinics, the annual fee shall be set in
32 accordance with Section 1266.

33 (d) *For all clinic corporations licensed pursuant to this chapter,*
34 *the annual fee shall be a percentage of the fee for primary care*
35 *clinics set pursuant to subdivision (a) for each clinic site.*
36 *Intermittent clinics, as described in subdivision (h) of Section 1206,*
37 *included in the clinic corporation license shall not be counted for*
38 *the purpose of establishing the license fee.*

39 SEC. 7. Section 1216 of the Health and Safety Code is amended
40 to read:

1 1216. (a) Every clinic holding a license *or included in the*
2 *license of a clinic corporation* shall, on or before the 15th day of
3 February each year, file with the Office of Statewide Health
4 Planning and Development upon forms to be furnished by the
5 office, a verified report showing the following information relating
6 to the previous calendar year:

7 (1) Number of patients served and descriptive information,
8 including age, gender, race, and ethnic background of patients.

9 (2) Number of patient visits by type of service, including all of
10 the following:

11 (A) Child health and disability prevention screens, treatment,
12 and followup services.

13 (B) Medical services.

14 (C) Dental services.

15 (D) Other health services.

16 (3) Total clinic operating expenses.

17 (4) Gross patient charges by payer category, including Medicare,
18 Medi-Cal, the Child Health Disability Prevention Program, county
19 indigent programs, other county programs, private insurance,
20 self-paying patients, nonpaying patients, and other payers.

21 (5) Deductions from revenue by payer category, bad debts, and
22 charity care charges.

23 (6) Additional information as may be required by the office or
24 the department.

25 (b) In the event a clinic fails to file a timely report, the
26 department may suspend the license of the clinic until the report
27 is completed and filed with the office.

28 (c) In order to promote efficient reporting of accurate data, the
29 office shall consider the unique operational characteristics of
30 different classifications of licensed clinics, including, but not
31 limited to, the limited scope of services provided by some specialty
32 clinics, in its design of forms for the collection of data required
33 by this section.

34 (d) For the purpose of administering funds appropriated from
35 the Cigarette and Tobacco Products Surtax Fund for support of
36 licensed clinics, clinics receiving those funds may be required to
37 report any additional data the office or the department may
38 determine necessary to ensure the equitable distribution and
39 appropriate expenditure of those funds. This shall include, but not

1 be limited to, information about the poverty level of patients served
2 and communicable diseases reported to local health departments.

3 (e) This section shall apply to all primary care clinics *but shall*
4 *not apply to intermittent clinics, as defined in subdivision (h) of*
5 *Section 1206.*

6 (f) This section shall apply to all specialty clinics, as defined in
7 paragraph (2) of subdivision (a) of Section 1204 of the Health and
8 Safety Code that receive tobacco tax funds pursuant to Article 2
9 (commencing with Section 30121) of Chapter 2 of Part 13 of
10 Division 2 of the Revenue and Taxation Code.

11 (g) Specialty clinics that are not required to report pursuant to
12 subdivision (f) shall report data as directed in Section 1216 as it
13 existed prior to the enactment of Chapter 1331 of the Statutes of
14 1989 and Chapter 51 of the Statutes of 1990.

15 SEC. 8. Section 1219 of the Health and Safety Code is amended
16 to read:

17 1219. (a) Except for ~~an affiliate-clinics clinic~~, as defined in
18 Section 1218.1, *or a clinic corporation that includes in its*
19 *application for a single consolidated license a primary care clinic,*
20 *including a mobile health care unit, that was licensed and in good*
21 *standing as of December 31, 2009, if a clinic or an applicant for*
22 *a license has not been previously licensed, the department may*
23 *only issue a provisional license to the clinic as provided in this*
24 *section.*

25 (b) A provisional license to operate a clinic shall terminate six
26 months from the date of issuance.

27 (c) Within 30 days prior to the termination of a provisional
28 license, the department shall give the clinic a full and complete
29 inspection, and, if the clinic meets all applicable requirements for
30 licensure, a regular license shall be issued. If the clinic does not
31 meet the requirements for licensure but has made substantial
32 progress towards meeting ~~such~~ *those* requirements, as determined
33 by the department, the initial provisional license shall be renewed
34 for six months.

35 (d) If the department determines that there has not been
36 substantial progress towards meeting licensure requirements at the
37 time of the first full inspection provided by this section, or, if the
38 department determines upon its inspection made within 30 days
39 of the termination of a renewed provisional license that there is a

1 lack of full compliance with ~~such~~ *those* requirements, no further
2 license shall be issued.

3 (e) If an applicant for a provisional license to operate a clinic
4 has been denied by the department, the applicant may contest the
5 denial by filing a statement of issues, as provided in Section 11504
6 of the Government Code. The proceedings to review the denial
7 shall be conducted pursuant to the provisions of Chapter 5
8 (commencing with Section 11500) of Part 1 of Division 3 of Title
9 2 of the Government Code.

10 SEC. 9. Section 1221 of the Health and Safety Code is amended
11 to read:

12 1221. For purposes of this article, the following definitions
13 shall apply:

14 (a) “Centralized applications unit” means the centralized
15 applications unit in the Licensing and Certification Division of the
16 State Department of *Public Health Services*, or a successor entity.

17 (b) “Clinic” means ~~nonprofit~~ primary care clinics, nonprofit
18 community health centers, *nonprofit rural health clinics*, nonprofit
19 community clinics, and free clinics.

20 SEC. 10. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.