

Senate Bill No. 442

CHAPTER 502

An act to amend Sections 1200, 1213, and 1218.1 of, and to add Section 1218.3 to, the Health and Safety Code, relating to clinics.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 442, 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 operates one or more primary care clinics or mobile health care units as defined.

Existing law allows specified primary care clinics to apply for a license to establish a primary care clinic, known as an affiliate clinic, at an additional site and allows the department to approve a license for the affiliate clinic, without the necessity of first conducting an initial onsite survey in specified conditions.

This bill would allow a clinic corporation, on behalf of an eligible primary care clinic, to submit an affiliate clinic application, as specified, to license a primary care clinic or a mobile health care unit as an affiliate clinic if certain conditions are met. The bill would designate the clinic corporation as the administrative headquarters for specified purposes for all of the affiliated clinics operated by that clinic corporation and would allow the clinic corporation to submit a single report of change and a single payment for all clinic license renewal fees that are due within the same license renewal month for all of the primary care clinics operated by the clinic corporation. The bill would also require the department to create a complete corporate file for each clinic corporation that includes specified information.

Because this bill would create a new crime, it would impose 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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) California's primary care clinics are essential partners with the state in providing a health care safety net for underserved, uninsured, and underinsured populations in a cost-effective manner.

(b) California's primary care clinics generate significant savings to the state and to local communities in both of the following ways:

(1) By providing primary and preventive care that responds to patients' needs before medical problems become serious or life threatening.

(2) By reducing the reliance of patients, including uninsured and underinsured patients, on costly emergency room care, inpatient treatment, and specialty care.

(c) The need for primary care clinics continues to grow dramatically due to the continuing increase of uninsured and underinsured patients in California, the escalating unemployment rate, and a severely depressed economy.

(d) The current system for licensing primary care clinics is inefficient and results in a significant waste of taxpayer and community resources that could otherwise be devoted to patient care. Requiring a nonprofit clinic corporation that operates primary care clinics to submit a full application package for each affiliate clinic license every time the clinic corporation wishes to open a new site results in the repeated submission of a significant amount of information and documentation that is already in the department's possession. This places a significant burden both on the primary care clinics that must compile the information and on regulators who must process it. The mandate under current law that each clinic separately submit notices to the department for any change in the clinic's administration, medical director, or board members further burdens clinic corporations that operate multiple clinic sites under a centralized administration. This requirement also results in the submission of unnecessary duplicate notices to the department.

(e) Streamlining administrative processes through a paperwork reduction process that eliminates duplication in the application requirements for new affiliate clinics will result in substantial cost savings to the state and improved access to health care for underserved populations.

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

1200. (a) As used in this chapter, "clinic" means an organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250). A place, establishment, or institution that solely provides advice, counseling, information, or referrals on the

maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where that advice, counseling, information, or referral does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

(b) For purposes of this chapter:

(1) “Primary care clinics” means all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics.

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

(3) “Clinic corporation” means a nonprofit organization that operates one or more primary care clinics, as defined in paragraph (1) of subdivision (a) of Section 1204, that are required to be licensed under Section 1205, one or more mobile health care units required to be licensed or approved pursuant to the Mobile Health Care Services Act (Chapter 9 (commencing with Section 1765.101)) and operated as primary care clinics, or one or more primary care clinics and one or more mobile health care units.

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

(5) “Centralized applications unit” means the centralized applications unit in the Licensing and Certification Division of the department, or a successor entity.

SEC. 3. Section 1213 of the Health and Safety Code is amended to read:

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

SEC. 4. Section 1218.1 of the Health and Safety Code is amended to read:

1218.1. (a) A clinic corporation on behalf of a primary care clinic that has held a valid, unrevoked, and unsuspended license for at least the immediately preceding five years, with no demonstrated history of repeated or uncorrected violations of this chapter or a regulation adopted under this chapter that pose immediate jeopardy to a patient, as defined in subdivision (f), and that has no pending action to suspend or revoke its license, may file an affiliate clinic application under this section to establish a primary care clinic at an additional site or a mobile health care unit, either of which shall hereafter be referred to as the affiliate clinic. The department, upon receipt of the completed affiliate clinic application submitted by the clinic corporation, shall approve a license for the affiliate clinic, without the necessity of first conducting an initial onsite survey, if all of the following conditions are met:

(1) The clinic corporation that operates the existing licensed primary care clinic, which shall hereafter be referred to as the parent clinic, has submitted a completed affiliate clinic application and the associated application fee.

(2) The parent and affiliate clinics' corporate officers, as specified in Section 5213 of the Corporations Code, are the same.

(3) The parent and affiliate clinics are owned and operated by the same nonprofit organization with the same board of directors.

(4) The parent and affiliate clinics have the same medical director or directors and medical policies, procedures, protocols, and standards.

(b) The affiliate clinic application shall consist solely of a simple form and required supporting documents giving the following information:

(1) The name and address of the clinic corporation's administrative office.

(2) The name and contact information of the clinic corporation's chief executive officer or executive director.

(3) The name and address of the new affiliate primary care clinic site or the location of the new affiliate mobile health care unit.

(4) The name and contact information of the administrator of the new affiliate primary care clinic site or mobile health care unit.

(5) The expected days and hours of operation and the services to be provided at the new affiliate primary care clinic site or mobile health care unit.

(6) Evidence that the new affiliate mobile health care unit meets the requirements of the Mobile Health Care Services Act (Chapter 9 (commencing with Section 1765.101)).

(7) The type and the manufacturer of the new affiliate mobile health care unit and the proposed area or areas where the new affiliate mobile health care unit will be providing services.

(8) To the extent otherwise required by law, evidence of compliance with the minimum construction standards for adequacy and safety of the new affiliate clinic's physical plant, pursuant to the OSHPD 3 requirements of the most recent version of the California Building Code applicable to clinics and subdivision (b) of Section 1226. The compliance may be established in the form prescribed by Section 1226.3.

(9) Evidence of fire clearance for the new affiliate clinic site.

(10) A copy of the lease or purchase agreement for the new affiliate clinic site.

(11) A copy of the transfer agreement between the new affiliate clinic and a local hospital.

(12) A current list of clinic corporation board members.

(c) The affiliate clinic application shall be signed by an officer of the clinic corporation's board of directors or the clinic corporation's chief executive officer or executive director.

(d) The department shall issue a clinic license under this section within 30 days of receipt of a completed affiliate clinic application. If approved, a clinic license shall be issued within seven days of approval. If the department determines that an applicant does not meet the conditions stated in subdivision (a), it shall identify, in writing and with particularity, the grounds for that determination, and shall instead process the application in accordance with the time specified in Section 1218.

(e) Nothing in this section shall prohibit the department from conducting a licensing inspection of the affiliate clinic at any time after receipt of the completed affiliate clinic application.

(f) For purposes of this section, “immediate jeopardy to a patient” means a situation in which the clinic’s noncompliance with one or more requirements of licensure has caused, or is likely to cause, serious injury, harm, impairment, or death to a patient.

SEC. 5. Section 1218.3 is added to the Health and Safety Code, to read:

1218.3. (a) In order to reduce paperwork, eliminate errors, and streamline communications between the department and licensed primary care clinics, a clinic corporation that operates one or more affiliate clinics shall, on behalf of all licensed clinics it operates, act as the administrative headquarters for purposes of receiving from and submitting to the department communications regarding primary care clinic license applications or license renewals, primary care clinic operations, requests for prior approval, additions of services, primary care clinic relocations, required reports of changes in primary care clinic administration and board of directors, notices of deficiencies, and all communications from the department to primary care clinics licensed by the department including communications by mail, e-mail, facsimile, or any other electronic or telephonic means.

(b) The department shall maintain a complete corporate file containing information about each clinic corporation operating one or more affiliate clinics, including all of the following:

(1) A copy of the clinic corporation’s articles of incorporation and bylaws.

(2) Unless exempt under paragraph (1) of subdivision (a) of Section 1204, a copy of the determination letter to show the clinic corporation’s exempt status under paragraph (3) of subsection (c) of the Internal Revenue Code of 1954, as amended.

(3) A copy of the clinic corporation’s organizational chart.

(4) Information identifying the clinic corporation’s governing body, including the clinic corporation’s board of directors and corporate officers and required documents.

(5) Information identifying the clinic corporation’s administrators, including the chief executive officer or executive director and medical director.

(c) A clinic corporation shall not be required to resubmit information, materials, or documents identified in subdivision (b) as part of an affiliate clinic application, unless the information, materials, or documents are necessary to complete the corporate file.

(d) A clinic corporation shall submit to the department, on behalf of all licensed primary care clinics operated by the clinic corporation, a single report of change that is applicable to all primary care clinics operated by the clinic corporation, including a change in a principal officer or general manager of the governing body, the medical director, and the clinic administrator, as required by law.

(e) A clinic corporation may submit to the department, on behalf of all licensed primary care clinics operated by the clinic corporation that are

within the same license renewal month, a single payment for all primary care clinic licensure renewal fees.

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