

AMENDED IN ASSEMBLY MARCH 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1952

Introduced by Assembly Member Pan

February 19, 2014

An act to add Article 1.5 (commencing with Section 127447.10) to Chapter 2.5 of Part 2 of Division 107 of the Health and Safety Code, relating to health facilities, and making an appropriation therefor facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1952, as amended, Pan. ~~Charity care and Wellness Trust Fund.~~
Nonprofit hospitals: charity care.

Existing law establishes the State Department of Public Health ~~Health~~, under the direction of the State Public Health Officer, and sets forth its powers and duties, including, but not limited to, the licensing and regulation of health facilities. ~~Existing law establishes the Offices of Statewide Health Planning and Development and sets forth its powers and duties, including, but not limited to, health planning and research development.~~

Existing law requires specified hospitals to maintain an understandable discount policy and charity care policy, and makes uninsured patients with high medical costs who are at or below 350% of the federal poverty level eligible to apply for participation.

This bill would require a *nonprofit* general acute care hospital to annually provide charity care ~~or monetary contributions, or a combination~~, in an amount equaling at least of 5% of the hospital's net patient revenue. The bill *would require the State Public Health Officer to assess a penalty against noncomplying hospitals*, would establish

the ~~Wellness Trust Nonprofit Hospital Charity Care Penalty~~ Fund, would require the revenues collected pursuant to these provisions to be deposited into the fund, and would ~~continuously appropriate the fund~~ *declare these funds available, upon appropriation by the Legislature,* for the support of the Medi-Cal program.

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Article 1.5 (commencing with Section 127447.10)
2 is added to Chapter 2.5 of Part 2 of Division 107 of the Health and
3 Safety Code, to read:

4
5 Article 1.5. ~~Charity Care and Wellness Trust Fund~~-*Nonprofit*
6 *Hospital Charity Care*
7

8 127447.10. (a) Commencing January 1, 2015, a *nonprofit*
9 hospital, *pursuant to its charity care policy maintained under*
10 *Article 1 (commencing with Section 127400)*, shall annually
11 provide, for each fiscal year, an appropriate level of charity care
12 ~~or appropriate contributions to the Wellness Trust Fund of an~~
13 ~~amount~~ equal to at least 5 percent of the hospital's net patient
14 ~~revenue by providing any of the following:~~ *revenue.*

- 15 (1) ~~Charity care.~~
- 16 (2) ~~Monetary contributions to the fund.~~
- 17 (3) ~~A combination of charity care and contributions to the fund.~~

18 (b) For purposes of satisfying subdivision (a), a hospital shall
19 not change its existing fiscal year unless the hospital changes its
20 ownership or corporate structure as a result of a sale or merger.

21 (c) A determination of the amount of charity care and
22 contributions to the fund provided by a hospital shall be based on
23 the most recently completed fiscal year of the hospital.

24 (d) If a hospital reasonably determines that providing charity
25 ~~care or contributions to the fund~~ in accordance with this article in
26 a given fiscal year would result in the hospital having an annual
27 operating margin of less than 1 percent, the hospital may petition
28 ~~the office department~~ to be excused in whole or in part from
29 complying with subdivision (a) in that fiscal year. The director
30 may excuse compliance if he or she concurs with the hospital's

1 conclusion that compliance with subdivision (a) would result in
2 the hospital having an operating margin of less than 1 percent in
3 the fiscal year at issue.

4 (e) This section shall not apply to a hospital that is part of an
5 integrated nonprofit health system.

6 (f) Nothing in this article shall invalidate an ordinance of, nor
7 be construed to prohibit the adoption of an ordinance by, a city,
8 county, or city and county, unless simultaneous compliance with
9 this article and the ordinance is impossible.

10 *127447.15. (a) This article shall be administered and enforced*
11 *by the State Department of Public Health.*

12 *(b) The director shall assess a penalty to a hospital that does*
13 *not provide the minimum charity care within a fiscal year as*
14 *required by this article.*

15 *(c) (1) The penalty shall be at least ____dollars (\$____), and*
16 *shall not exceed ____ dollars (\$____) per fiscal year in which the*
17 *hospital is in violation.*

18 *(2) Notwithstanding paragraph (1), for a second and each*
19 *subsequent fiscal year of violation within a five-year period, the*
20 *penalty shall be a sum that is equivalent to at least twice the*
21 *hospital's total shortfall in charity care for that fiscal year, but*
22 *shall not exceed a sum that is equivalent to ____ percent of the*
23 *hospital's net patient revenue.*

24 *(d) In determining the amount of the penalty, the director shall*
25 *consider all of the following:*

26 *(1) The severity of the shortfall in charity care provided by the*
27 *hospital.*

28 *(2) The good-faith effort of the hospital to reach the required*
29 *level of charity care.*

30 ~~127447.15.~~

31 *127447.20. As used in this article, the following terms have*
32 *the following meanings:*

33 *(a) "Fund" means the ~~Wellness Trust Fund~~ Nonprofit Hospital*
34 *Charity Care Penalty Fund established pursuant to Section*
35 ~~127447.20. 127447.25.~~

36 *(b) "Office" means the ~~Office of Statewide Health Planning and~~*
37 *Development. "Department" means the State Department of Public*
38 *Health.*

39 *(c) "Director" means the ~~Director of the Office of Statewide~~*
40 *Health Planning and Development State Public Health Officer.*

1 (d) "Hospital" means any health facility licensed pursuant to
 2 subdivision (a) of Section ~~1250~~. *1250 that is owned or operated*
 3 *by one or more nonprofit corporations or associations in which*
 4 *no part of the net earnings inures, or may lawfully inure, to the*
 5 *benefit of any private shareholder or individual. "Hospital" does*
 6 *not include children's hospitals, as defined in Section 16996 of*
 7 *the Welfare and Institutions Code; or public hospitals, as defined*
 8 *in paragraph (25) of subdivision (a) of Section 14105.98 of the*
 9 *Welfare and Institutions Code.*

10 ~~127447.20.~~

11 ~~127447.25.~~ (a) ~~The Wellness Trust Nonprofit Hospital Charity~~
 12 ~~Care Penalty Fund~~ is hereby established within the General Fund.
 13 Revenues derived from ~~contributions from hospitals penalties~~
 14 ~~assessed~~ pursuant to this article shall be deposited into the fund
 15 ~~for the purposes of supporting health care for needy individuals~~
 16 ~~as set forth in this article.~~ Notwithstanding Section 16305.7 of the
 17 Government Code, any interest and dividends earned on deposits
 18 in the fund shall be retained in the fund for purposes set forth in
 19 this article.

20 (b) All moneys in the fund ~~are hereby continuously appropriated~~
 21 ~~shall be available for expenditure, upon appropriation by the~~
 22 ~~Legislature, for the support of the Medi-Cal program.~~

23 (c) It is the intent of the Legislature that moneys in the fund be
 24 used to supplement, and not displace, existing funding for the
 25 Medi-Cal program.

26 (d) For purposes of this section, "existing funding for the
 27 Medi-Cal program" means the total amount expended from
 28 appropriations by the Legislature for the Medi-Cal program in the
 29 fiscal year in which this section is enacted, or in any subsequent
 30 fiscal year, whichever is greater. "Existing funding for the
 31 Medi-Cal program" does not include any amount appropriated by
 32 ~~the Legislature from the fund pursuant to subdivision (b).~~ *fund.*

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