

AMENDED IN SENATE JUNE 29, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1130

**Introduced by Assembly Member Gray
(Principal coauthor: Assembly Member Gonzalez)**

February 27, 2015

An act to amend Section 1206 ~~of~~ *of, and to add Section 1218.4 to, the Health and Safety Code, relating to clinics.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Gray. Clinics: licensing: hours of operation.

Under existing law, the State Department of Public Health licenses and regulates clinics, as defined. Under existing law, specified types of clinics are exempted from these licensing provisions, including a clinic operated by a licensed primary care community or free clinic, that is operated on separate premises from the licensed clinic, and that is open for limited services of no more than 20 hours a week. *Existing law makes it a misdemeanor to violate any provision related to the licensure and regulation of clinics.*

This bill would increase the number of hours that a clinic may be open under this licensure exemption provision to 30 hours a week. *The bill would also require a licensed primary care community or free clinic to report to the department, when renewing its license, whether it is currently operating an intermittent clinic, the location of any intermittent clinic, and the estimated hours of operation of any intermittent clinic. By expanding the scope of an existing crime, this bill 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

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

1 SECTION 1. Section 1206 of the Health and Safety Code is
2 amended to read:

3 1206. This chapter does not apply to the following:

4 (a) Except with respect to the option provided with regard to
5 surgical clinics in paragraph (1) of subdivision (b) of Section 1204
6 and, further, with respect to specialty clinics specified in paragraph
7 (2) of subdivision (b) of Section 1204, any place or establishment
8 owned or leased and operated as a clinic or office by one or more
9 licensed health care practitioners and used as an office for the
10 practice of their profession, within the scope of their license,
11 regardless of the name used publicly to identify the place or
12 establishment.

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

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

27 (d) Clinics conducted, operated, or maintained as outpatient
28 departments of hospitals.

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

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

4 (g) A clinic operated by, or affiliated with, any institution of
5 learning that teaches a recognized healing art and is approved by
6 the state board or commission vested with responsibility for
7 regulation of the practice of that healing art.

8 (h) A clinic that is operated by a primary care community or
9 free clinic and that is operated on separate premises from the
10 licensed clinic and is only open for limited services of no more
11 than 30 hours a week. An intermittent clinic as described in this
12 subdivision shall, however, meet all other requirements of law,
13 including administrative regulations and requirements, pertaining
14 to fire and life safety.

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

19 (j) Student health centers operated by public institutions of
20 higher education.

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

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

1 (m) Any clinic, limited to in vivo diagnostic services by
2 magnetic resonance imaging functions or radiological services
3 under the direct and immediate supervision of a physician and
4 surgeon who is licensed to practice in California. This shall not
5 be construed to permit cardiac catheterization or any treatment
6 modality in these clinics.

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

13 (o) A community mental health center, as defined in Section
14 5667 of the Welfare and Institutions Code.

15 (p) (1) A clinic operated by a nonprofit corporation exempt
16 from federal income taxation under paragraph (3) of subsection
17 (c) of Section 501 of the Internal Revenue Code of 1954, as
18 amended, or a statutory successor thereof, as an entity organized
19 and operated exclusively for scientific and charitable purposes and
20 that satisfied all of the following requirements on or before January
21 1, 2005:

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

24 (B) Conducted research in, among other areas, prostatic cancer,
25 cardiovascular disease, electronic neural prosthetic devices,
26 biological effects and medical uses of lasers, and human magnetic
27 resonance imaging and spectroscopy.

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

30 (D) Received grants and contracts from the National Institutes
31 of Health.

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

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

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

36 (i) In conjunction with research being conducted on procedures
37 or applications not approved or only partially approved for payment

38 (I) under the Medicare program pursuant to Section 1359y(a)(1)(A)
39 of Title 42 of the United States Code, or (II) by a health care service
40 plan registered under Chapter 2.2 (commencing with Section 1340),

1 or a disability insurer regulated under Chapter 1 (commencing
2 with Section 10110) of Part 2 of Division 2 of the Insurance Code;
3 provided that services may be provided by the clinic for an
4 additional period of up to three years following the approvals, but
5 only to the extent necessary to maintain clinical expertise in the
6 procedure or application for purposes of actively providing training
7 in the procedure or application for physicians and surgeons
8 unrelated to the clinic.

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

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

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

35 (2) By January 1, 2007, and every five years thereafter, the
36 Legislature shall receive a report from each clinic meeting the
37 criteria of this subdivision and any other interested party
38 concerning the operation of the clinic’s activities. The report shall
39 include, but not be limited to, an evaluation of how the clinic
40 impacted competition in the relevant health care market, and a

1 detailed description of the clinic’s research results and the level
 2 of acceptance by the payer community of the procedures performed
 3 at the clinic. The report shall also include a description of
 4 procedures performed both in clinics governed by this subdivision
 5 and those performed in other settings. The cost of preparing the
 6 reports shall be borne by the clinics that are required to submit
 7 them to the Legislature pursuant to this paragraph.

8 *SEC. 2. Section 1218.4 is added to the Health and Safety Code,*
 9 *to read:*

10 *1218.4. (a) A licensed primary care community or free clinic*
 11 *shall report to the department, when renewing its license, whether*
 12 *it is currently operating an intermittent clinic, the location of any*
 13 *intermittent clinic, and the estimated hours of operation of any*
 14 *intermittent clinic.*

15 *(b) For the purposes of this section “intermittent clinic” means*
 16 *a clinic described in subdivision (h) of Section 1206.*

17 *SEC. 3. No reimbursement is required by this act pursuant to*
 18 *Section 6 of Article XIII B of the California Constitution because*
 19 *the only costs that may be incurred by a local agency or school*
 20 *district will be incurred because this act creates a new crime or*
 21 *infraction, eliminates a crime or infraction, or changes the penalty*
 22 *for a crime or infraction, within the meaning of Section 17556 of*
 23 *the Government Code, or changes the definition of a crime within*
 24 *the meaning of Section 6 of Article XIII B of the California*
 25 *Constitution.*