

AMENDED IN SENATE AUGUST 26, 2015

AMENDED IN SENATE JUNE 29, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1130**

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

February 27, 2015

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An act to amend Section 1206 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

*This bill would incorporate additional changes to Section 1206 of the Health and Safety Code proposed by AB 941 that would become operative if this bill and AB 941 are chaptered and this bill is chaptered last.*

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: 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

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

3 (d) Clinics conducted, operated, or maintained as outpatient  
4 departments of hospitals.

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

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

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

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

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

25 (j) Student health centers operated by public institutions of  
26 higher education.

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

38 (l) A clinic operated by a nonprofit corporation exempt from  
39 federal income taxation under paragraph (3) of subsection (c) of  
40 Section 501 of the Internal Revenue Code of 1954, as amended,

1 or a statutory successor thereof, that conducts medical research  
2 and health education and provides health care to its patients through  
3 a group of 40 or more physicians and surgeons, who are  
4 independent contractors representing not less than 10  
5 board-certified specialties, and not less than two-thirds of whom  
6 practice on a full-time basis at the clinic.

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

13 (n) A clinic operated by an employer or jointly by two or more  
14 employers for their employees only, or by a group of employees,  
15 or jointly by employees and employers, without profit to the  
16 operators thereof or to any other person, for the prevention and  
17 treatment of accidental injuries to, and the care of the health of,  
18 the employees comprising the group.

19 (o) A community mental health center, as defined in Section  
20 5667 of the Welfare and Institutions Code.

21 (p) (1) A clinic operated by a nonprofit corporation exempt  
22 from federal income taxation under paragraph (3) of subsection  
23 (c) of Section 501 of the Internal Revenue Code of 1954, as  
24 amended, or a statutory successor thereof, as an entity organized  
25 and operated exclusively for scientific and charitable purposes and  
26 that satisfied all of the following requirements on or before January  
27 1, 2005:

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

30 (B) Conducted research in, among other areas, prostatic cancer,  
31 cardiovascular disease, electronic neural prosthetic devices,  
32 biological effects and medical uses of lasers, and human magnetic  
33 resonance imaging and spectroscopy.

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

36 (D) Received grants and contracts from the National Institutes  
37 of Health.

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

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

1 (G) Provides health care services to patients only:  
2 (i) In conjunction with research being conducted on procedures  
3 or applications not approved or only partially approved for payment  
4 (I) under the Medicare program pursuant to Section 1359y(a)(1)(A)  
5 of Title 42 of the United States Code, or (II) by a health care service  
6 plan registered under Chapter 2.2 (commencing with Section 1340),  
7 or a disability insurer regulated under Chapter 1 (commencing  
8 with Section 10110) of Part 2 of Division 2 of the Insurance Code;  
9 provided that services may be provided by the clinic for an  
10 additional period of up to three years following the approvals, but  
11 only to the extent necessary to maintain clinical expertise in the  
12 procedure or application for purposes of actively providing training  
13 in the procedure or application for physicians and surgeons  
14 unrelated to the clinic.  
15 (ii) Through physicians and surgeons who, in the aggregate,  
16 devote no more than 30 percent of their professional time for the  
17 entity operating the clinic, on an annual basis, to direct patient care  
18 activities for which charges for professional services are paid.  
19 (H) Makes available to the public the general results of its  
20 research activities on at least an annual basis, subject to good faith  
21 protection of proprietary rights in its intellectual property.  
22 (I) Is a freestanding clinic, whose operations under this  
23 subdivision are not conducted in conjunction with any affiliated  
24 or associated health clinic or facility defined under this division,  
25 except a clinic exempt from licensure under subdivision (m). For  
26 purposes of this subparagraph, a freestanding clinic is defined as  
27 “affiliated” only if it directly, or indirectly through one or more  
28 intermediaries, controls, or is controlled by, or is under common  
29 control with, a clinic or health facility defined under this division,  
30 except a clinic exempt from licensure under subdivision (m). For  
31 purposes of this subparagraph, a freestanding clinic is defined as  
32 “associated” only if more than 20 percent of the directors or trustees  
33 of the clinic are also the directors or trustees of any individual  
34 clinic or health facility defined under this division, except a clinic  
35 exempt from licensure under subdivision (m). Any activity by a  
36 clinic under this subdivision in connection with an affiliated or  
37 associated entity shall fully comply with the requirements of this  
38 subdivision. This subparagraph shall not apply to agreements  
39 between a clinic and any entity for purposes of coordinating  
40 medical research.

1 (2) By January 1, 2007, and every five years thereafter, the  
 2 Legislature shall receive a report from each clinic meeting the  
 3 criteria of this subdivision and any other interested party  
 4 concerning the operation of the clinic’s activities. The report shall  
 5 include, but not be limited to, an evaluation of how the clinic  
 6 impacted competition in the relevant health care market, and a  
 7 detailed description of the clinic’s research results and the level  
 8 of acceptance by the payer community of the procedures performed  
 9 at the clinic. The report shall also include a description of  
 10 procedures performed both in clinics governed by this subdivision  
 11 and those performed in other settings. The cost of preparing the  
 12 reports shall be borne by the clinics that are required to submit  
 13 them to the Legislature pursuant to this paragraph.

14 *SEC. 1.5. Section 1206 of the Health and Safety Code is*  
 15 *amended to read:*

16 1206. This chapter does not apply to the following:

17 (a) Except with respect to the option provided with regard to  
 18 surgical clinics in paragraph (1) of subdivision (b) of Section 1204  
 19 and, further, with respect to specialty clinics specified in paragraph  
 20 (2) of subdivision (b) of Section 1204, any place or establishment  
 21 owned or leased and operated as a clinic or office by one or more  
 22 licensed health care practitioners and used as an office for the  
 23 practice of their profession, within the scope of their license,  
 24 regardless of the name used publicly to identify the place or  
 25 establishment.

26 (b) Any clinic directly conducted, maintained, or operated by  
 27 the United States or by any of its departments, officers, or agencies,  
 28 and any primary care clinic specified in subdivision (a) of Section  
 29 1204 that is directly conducted, maintained, or operated by this  
 30 state or by any of its political subdivisions or districts, or by any  
 31 city. Nothing in this subdivision precludes the state department  
 32 from adopting regulations that utilize clinic licensing standards as  
 33 eligibility criteria for participation in programs funded wholly or  
 34 partially under Title XVIII or XIX of the federal Social Security  
 35 Act.

36 (c) (1) Any clinic conducted, maintained, or operated by a  
 37 federally recognized Indian tribe or tribal organization, as defined  
 38 in Section 450 or ~~460~~ 1603 of Title 25 of the United States Code,  
 39 that is located on land recognized as tribal land by the federal  
 40 government.

1 (2) Any clinic conducted, maintained, or operated by a federally  
2 recognized Indian tribe or tribal organization, as defined in Section  
3 450 or 1603 of Title 25 of the United States Code, under a contract  
4 with the United States pursuant to the Indian Self-Determination  
5 and Education Assistance Act (Public Law 93-638), regardless of  
6 the location of the clinic, except that if the clinic chooses to apply  
7 to the State Department of Public Health for a state facility license,  
8 then the State Department of Public Health will retain authority  
9 to regulate that clinic as a primary care clinic as defined by  
10 subdivision (a) of Section 1204.

11 (d) Clinics conducted, operated, or maintained as outpatient  
12 departments of hospitals.

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

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

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

22 (h) A clinic that is operated by a primary care community or  
23 free clinic and that is operated on separate premises from the  
24 licensed clinic and is only open for limited services of no more  
25 than ~~20~~ 30 hours a week. An intermittent clinic as described in  
26 this subdivision shall, however, meet all other requirements of  
27 law, including administrative regulations and requirements,  
28 pertaining to fire and life safety.

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

33 (j) Student health centers operated by public institutions of  
34 higher education.

35 (k) Nonprofit speech and hearing centers, as defined in Section  
36 1201.5. Any nonprofit speech and hearing clinic desiring an  
37 exemption under this subdivision shall make application therefor  
38 to the director, who shall grant the exemption to any facility  
39 meeting the criteria of Section 1201.5. Notwithstanding the  
40 licensure exemption contained in this subdivision, a nonprofit

1 speech and hearing center shall be deemed to be an organized  
2 outpatient clinic for purposes of qualifying for reimbursement as  
3 a rehabilitation center under the Medi-Cal Act (Chapter 7  
4 (commencing with Section 14000) of Part 3 of Division 9 of the  
5 Welfare and Institutions Code).

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

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

21 (n) A clinic operated by an employer or jointly by two or more  
22 employers for their employees only, or by a group of employees,  
23 or jointly by employees and employers, without profit to the  
24 operators thereof or to any other person, for the prevention and  
25 treatment of accidental injuries to, and the care of the health of,  
26 the employees comprising the group.

27 (o) A community mental health center, as defined in Section  
28 ~~5601.5~~ 5667 of the Welfare and Institutions Code.

29 (p) (1) A clinic operated by a nonprofit corporation exempt  
30 from federal income taxation under paragraph (3) of subsection  
31 (c) of Section 501 of the Internal Revenue Code of 1954, as  
32 amended, or a statutory successor thereof, as an entity organized  
33 and operated exclusively for scientific and charitable purposes and  
34 that satisfied all of the following requirements on or before January  
35 1, 2005:

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

38 (B) Conducted research in, among other areas, prostatic cancer,  
39 cardiovascular disease, electronic neural prosthetic devices,

1 biological effects and medical uses of lasers, and human magnetic  
2 resonance imaging and spectroscopy.

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4 articles in peer-reviewed publications.

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6 of Health.

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9 least five million dollars (\$5,000,000).

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11 (i) In conjunction with research being conducted on procedures  
12 or applications not approved or only partially approved for payment  
13 (I) under the Medicare program pursuant to Section 1359y(a)(1)(A)  
14 of Title 42 of the United States Code, or (II) by a health care service  
15 plan registered under Chapter 2.2 (commencing with Section 1340),  
16 or a disability insurer regulated under Chapter 1 (commencing  
17 with Section 10110) of Part 2 of Division 2 of the Insurance Code;  
18 provided that services may be provided by the clinic for an  
19 additional period of up to three years following the approvals, but  
20 only to the extent necessary to maintain clinical expertise in the  
21 procedure or application for purposes of actively providing training  
22 in the procedure or application for physicians and surgeons  
23 unrelated to the clinic.

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

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

31 (I) Is a freestanding clinic, whose operations under this  
32 subdivision are not conducted in conjunction with any affiliated  
33 or associated health clinic or facility defined under this division,  
34 except a clinic exempt from licensure under subdivision (m). For  
35 purposes of this subparagraph, a freestanding clinic is defined as  
36 “affiliated” only if it directly, or indirectly through one or more  
37 intermediaries, controls, or is controlled by, or is under common  
38 control with, a clinic or health facility defined under this division,  
39 except a clinic exempt from licensure under subdivision (m). For  
40 purposes of this subparagraph, a freestanding clinic is defined as

1 “associated” only if more than 20 percent of the directors or trustees  
2 of the clinic are also the directors or trustees of any individual  
3 clinic or health facility defined under this division, except a clinic  
4 exempt from licensure under subdivision (m). Any activity by a  
5 clinic under this subdivision in connection with an affiliated or  
6 associated entity shall fully comply with the requirements of this  
7 subdivision. This subparagraph shall not apply to agreements  
8 between a clinic and any entity for purposes of coordinating  
9 medical research.

10 (2) By January 1, 2007, and every five years thereafter, the  
11 Legislature shall receive a report from each clinic meeting the  
12 criteria of this subdivision and any other interested party  
13 concerning the operation of the clinic’s activities. The report shall  
14 include, but not be limited to, an evaluation of how the clinic  
15 impacted competition in the relevant health care market, and a  
16 detailed description of the clinic’s research results and the level  
17 of acceptance by the payer community of the procedures performed  
18 at the clinic. The report shall also include a description of  
19 procedures performed both in clinics governed by this subdivision  
20 and those performed in other settings. The cost of preparing the  
21 reports shall be borne by the clinics that are required to submit  
22 them to the Legislature pursuant to this paragraph.

23 SEC. 2. Section 1218.4 is added to the Health and Safety Code,  
24 to read:

25 1218.4. (a) A licensed primary care community or free clinic  
26 shall report to the department, when renewing its license, whether  
27 it is currently operating an intermittent clinic, the location of any  
28 intermittent clinic, and the estimated hours of operation of any  
29 intermittent clinic.

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

32 *SEC. 3. Section 1.5 of this bill incorporates amendments to*  
33 *Section 1206 of the Health and Safety Code proposed by both this*  
34 *bill and Assembly Bill 941. It shall only become operative if (1)*  
35 *both bills are enacted and become effective on or before January*  
36 *1, 2016, (2) each bill amends Section 1206 of the Health and Safety*  
37 *Code, and (3) this bill is enacted after Assembly Bill 941, in which*  
38 *case Section 1 of this bill shall not become operative.*

1     ~~SEC. 3.~~

2     *SEC. 4.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section 17556 of  
8 the Government Code, or changes the definition of a crime within  
9 the meaning of Section 6 of Article XIII B of the California  
10 Constitution.

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