

**Introduced by Senator Hernandez**

May 7, 2015

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Senate Joint Resolution No. 8—Relative to Medicare.

LEGISLATIVE COUNSEL’S DIGEST

SJR 8, as introduced, Hernandez. Medicare: observation status.

This measure would urge Congress and the President of the United States to reform the short stay admissions criteria for Medicare beneficiaries and to discontinue the two-midnight policy.

Fiscal committee: no.

1 WHEREAS, The federal Centers for Medicare and Medicaid  
2 Services set rules for hospital stays for Medicare beneficiaries;  
3 and

4 WHEREAS, These rules govern admissions for the elderly, our  
5 most vulnerable patient population; and

6 WHEREAS, Federal guidelines drive physician habits and  
7 hospital policy as Medicare is the largest purveyor of health care  
8 in the state; and

9 WHEREAS, The federal Centers for Medicare and Medicaid  
10 Services’ guidelines state that patients are not to be formally  
11 admitted as a hospital inpatient unless the physician expects the  
12 patient’s condition to warrant a stay of at least two nights; and

13 WHEREAS, This “two midnight” determination creates arbitrary  
14 decisions for hospital admissions that are not based on the clinical  
15 condition of the patient but rather an expected length of stay; and

16 WHEREAS, Hospital admission decisions should be made by  
17 a licensed physician, assessing the appropriate care for the patient  
18 and not an arbitrary time-driven guideline; and

1 WHEREAS, The two-midnight policy has caused many seniors  
2 to be kept in “observation status” without formal admission as a  
3 hospital inpatient; and

4 WHEREAS, These patients believe they have been admitted as  
5 a hospital inpatient when in fact they have not, leading to confusion  
6 for both the patient and their family; and

7 WHEREAS, Medicare will not pay for skilled nursing facility  
8 care unless a senior has been admitted as a hospital inpatient for  
9 at least three days; and

10 WHEREAS, The observation policy, which resulted from the  
11 federal Centers for Medicare and Medicaid Services’ guidelines,  
12 has denied seniors the appropriate criteria for admission to skilled  
13 nursing facilities because time spent in “observation status” does  
14 not count as a qualifying hospital admission; and

15 WHEREAS, The observation stay practice is not in the best  
16 interests of patients, hospitals, and health care professionals; now,  
17 therefore, be it

18 *Resolved by the Senate and the Assembly of the State of*  
19 *California, jointly,* That the Legislature respectfully urges Congress  
20 and the President of the United States to reform the short stay  
21 admissions criteria to more accurately reflect the clinical needs of  
22 a patient as determined by a physician and to discontinue the  
23 two-midnight policy that is currently in place; and be it further

24 *Resolved,* That the Secretary of the Senate transmit copies of  
25 this resolution to the President and Vice President of the United  
26 States, to the Speaker of the House of Representatives, to the  
27 Majority Leader of the Senate, and to each Senator and  
28 Representative from California in the Congress of the United  
29 States.