

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JULY 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1177**

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**Introduced by Assembly Members Gomez, Burke, and Low**

February 27, 2015

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An act to ~~add, repeal, and add~~ *add and repeal* Section 1204.2 of the Health and Safety Code, relating to primary care clinics.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1177, as amended, Gomez. Primary care clinics: written transfer agreements.

Existing regulations require primary care clinics to maintain a written transfer agreement with one or more nearby hospitals and other facilities as appropriate to meet medical emergencies. Existing law authorizes certain clinics to request that the State Department of Public Health waive this requirement.

This bill would provide that a licensed primary care clinic is not required to enter into a written transfer agreement pursuant to those provisions as a condition of licensure, except as provided for a primary care clinic where anesthesia is used in compliance with the community standard of practice, in doses ~~that~~ *that*, when ~~administered~~ *administered*, have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes. The bill would ~~not require~~ *exempt* a primary care clinic ~~to have a~~ *from the above-referenced* hospital transfer agreement ~~with a nearby hospital requirement~~ if the clinic ~~provides analgesia and sedation services consisting only of local anesthesia, peripheral nerve blocks, a combination thereof, or conscious~~

~~sedation, as defined: submits to the State Department of Public Health competent evidence, as defined, that documents its attempt to obtain a written transfer agreement from at least 2 local hospitals, except as provided. The bill would impose similar requirements upon an alternative birth center licensed as a primary care clinic, as specified.~~ The bill would require the ~~State Department of Public Health~~ department to ~~repeal~~ amend its regulations to conform to these changes.

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

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

1 SECTION 1. Section 1204.2 is added to the Health and Safety  
2 Code, to read:  
3 1204.2. (a) (1) Notwithstanding any other law, including, but  
4 not limited to, Section 75047 of Title 22 of the California Code of  
5 Regulations, and except as provided in paragraph (2), a primary  
6 care clinic described in subdivision (a) of Section 1204 that is  
7 licensed pursuant to this chapter shall not be required to enter into  
8 a written transfer agreement with a nearby hospital as a condition  
9 of licensure.  
10 (2) (A) A primary care clinic where anesthesia is used in  
11 compliance with the community standard of practice, in doses ~~that~~  
12 ~~that, when administered~~ administered, have the probability of  
13 placing a patient at risk for loss of the patient's life-preserving  
14 protective reflexes, shall ~~do one of the following:~~  
15 (i) ~~Have~~ have a written transfer agreement with a local  
16 accredited or licensed general acute care hospital.  
17 (ii) ~~Permit procedures requiring the doses of anesthesia described~~  
18 ~~in this subparagraph to be performed only by a licensee who has~~  
19 ~~admitting privileges at a local accredited or licensed general acute~~  
20 ~~care hospital, except that a licensee who may be precluded from~~  
21 ~~having admitting privileges due to his or her professional~~  
22 ~~classification or other administrative limitations shall have a written~~  
23 ~~transfer agreement with a licensee who has admitting privileges~~  
24 ~~at a local accredited or licensed general acute care hospital.~~  
25 (iii) ~~Submit for approval from an accrediting agency a detailed~~  
26 ~~procedural plan for handling medical emergencies that shall be~~  
27 ~~reviewed at the time of accreditation. A reasonable plan shall not~~  
28 ~~be disapproved by the accrediting agency.~~

(B) A primary care clinic described in subparagraph (A) ~~that cannot meet any of the criteria listed in clauses (i) to (iii), inclusive, of subparagraph (A) is exempt from this paragraph the requirements of subparagraph (A) if that clinic submits to the department any competent evidence that demonstrates to the department that documents its attempt to obtain a written transfer agreement from at least one nearby hospital or other inpatient health facility has two local hospitals that have elected not to enter into a transfer agreement with that primary care clinic. If the primary care clinic determines that there are not two hospitals that are reasonably accessible by road travel for purposes of providing patients with emergency medical care, the primary care clinic shall only be required to submit competent evidence to the department that documents its attempt to obtain a written transfer agreement from one local hospital.~~

(C) For the purposes of this section, ~~the following definitions shall apply:~~

(i) ~~“Competent”~~ “competent evidence” means evidence that is relevant and of such a nature that it can be received by a court of law, and includes, but is not limited to, an affidavit of someone with the legal authority to bind the clinic operation.

(ii) ~~“Nearby hospital or other inpatient health facility” means a hospital or other inpatient health facility that the clinic corporation has determined is reasonably accessible by road travel for purposes of providing patients with medical emergency care.~~

(D) *An alternative birth center that is licensed under this chapter as a primary care clinic, as a condition of licensure, shall be required to maintain a written transfer agreement with a local hospital. The transfer agreement shall include provisions for communication and transportation to meet medical emergencies. Essential personal, health, and medical information shall either accompany the patient upon transfer or be transmitted immediately by telephone to the receiving facility. This section does not modify or supersede the requirements imposed on alternative birth centers described in Section 1204.3.*

(b) This section does not require a primary care clinic to have a hospital transfer agreement with a ~~nearby~~ local hospital, if that clinic provides only the following types of analgesia and sedation services:

(1) Local anesthesia.

1 (2) Peripheral nerve blocks.

2 (3) A combination of both local anesthesia and peripheral nerve  
3 blocks.

4 (4) Conscious sedation, as defined in Section 1647.1 of the  
5 Business and Professions Code.

6 (c) The State Department of Public ~~Health~~ *shall, Health*, no  
7 later than July 1, 2016, ~~repeal~~ *shall amend* Section 75047 of  
8 Chapter 7 of Division 5 of Title 22 of the California Code of  
9 ~~Regulations. Regulations to be consistent with this section.~~

10 (d) This section shall remain in effect only until January 1, 2018,  
11 and as of that date is repealed, unless a later enacted statute, that  
12 is enacted before January 1, 2018, deletes or extends that date.

13 SEC. 2. Section 1204.2 is added to the Health and Safety Code,  
14 to read:

15 1204.2. (a) (1) Notwithstanding any other law, and except as  
16 provided in paragraph (2), a primary care clinic described in  
17 subdivision (a) of Section 1204 that is licensed pursuant to this  
18 chapter shall not be required to enter into a written transfer  
19 agreement with a nearby hospital as a condition of licensure.

20 (2) (A) A primary care clinic where anesthesia is used in  
21 compliance with the community standard of practice, in doses ~~that~~  
22 ~~that~~, when ~~administered~~ *administered*, have the probability of  
23 placing a patient at risk for loss of the patient's life-preserving  
24 protective reflexes, shall ~~do one of the following:~~

25 (i) ~~Have~~ *have* a written transfer agreement with a local  
26 accredited or licensed acute general care hospital.

27 (ii) ~~Permit procedures requiring the doses of anesthesia described~~  
28 ~~in this subparagraph to be performed only by a licensee who has~~  
29 ~~admitting privileges at a local accredited or licensed general acute~~  
30 ~~care hospital, except that a licensee who may be precluded from~~  
31 ~~having admitting privileges due to his or her professional~~  
32 ~~classification or other administrative limitations shall have a written~~  
33 ~~transfer agreement with a licensee who has admitting privileges~~  
34 ~~at a local accredited or licensed acute care hospital.~~

35 (iii) ~~Submit for approval from an accrediting agency a detailed~~  
36 ~~procedural plan for handling medical emergencies that shall be~~  
37 ~~reviewed at the time of accreditation. A reasonable plan shall not~~  
38 ~~be disapproved by the accrediting agency.~~

39 (B) A primary care clinic described in subparagraph (A) ~~that~~  
40 ~~cannot meet any of the criteria listed in clauses (i) to (iii), inclusive,~~

~~of subparagraph (A) shall be~~ *is exempt from this paragraph the requirements of subparagraph (A) if it submits to the department any competent evidence that demonstrates to the department that documents its attempts to obtain a written transfer agreement from at least one nearby hospital or other inpatient health facility has two local hospitals that have elected to not enter into a transfer agreement with that primary care clinic. If the primary care clinic determines that there are not two hospitals that are reasonably accessible by road travel for purposes of providing patients with emergency medical care, the primary care clinic shall only be required to submit competent evidence to the department that documents its attempt to obtain a written transfer agreement from one local hospital.*

(C) For the purposes of this section, ~~the following definitions shall apply:~~

(i) ~~“Competent~~ *“competent evidence” means evidence that is relevant and of such a nature that it can be received by a court of law, and includes, but is not limited to, an affidavit of someone with the legal authority to bind the clinic operation.*

(ii) ~~“Nearby hospital or other inpatient health facility” means a hospital or other inpatient health facility that the clinic corporation has determined is reasonably accessibly by road travel for purposes of providing patients with medical emergency care.~~

(D) *An alternative birth center that is licensed under this chapter as a primary care clinic, as a condition of licensure, shall be required to maintain a written transfer agreement with a local hospital. The transfer agreement shall include provisions for communication and transportation to meet medical emergencies. Essential personal, health, and medical information shall either accompany the patient upon transfer or be transmitted immediately by telephone to the receiving facility. This section does not modify or supersede the requirements imposed on alternative birth centers described in Section 1204.3.*

(b) This section does not require a primary care clinic to have a hospital transfer agreement with a nearby hospital, if that clinic provides only the following types of analgesia and sedation services:

(1) Local anesthesia.

(2) Peripheral nerve blocks.

- 1     (3) A combination of both local anesthesia and peripheral nerve
- 2     blocks.
- 3     (4) Conscious sedation, as defined in Section 1647.1 of the
- 4     Business and Professions Code.
- 5     (c) This section shall become operative on January 1, 2018.

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