

2020

REPORT ON LEGISLATION



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## President & CEO Message



The California Hospital Association's 2020 Report on Legislation summarizes the year's most significant health care-related bills and serves as a reference to help hospitals comply with new laws. We suggest you share this report with your leadership team so they can take any necessary steps to implement new requirements.

The effect of COVID-19 made this one of the most challenging legislative sessions in memory, with the Legislature emphasizing actions to mitigate the pandemic's impact on Californians — hence the advancement of bills related to personal protective equipment, workers' compensation, and access to primary care and behavioral health.

Perhaps of greatest significance, we stopped a bill that would have expanded the Attorney General's power to approve or reject hospital affiliations and mergers. Its defeat protects hospitals' flexibility, which fosters access to care and helps keep costs in check.

We also helped to defeat a budget proposal for a managed care rate reduction that would have cut Medi-Cal payments to hospitals by as much as \$500 million per year once fully implemented.

### Among 2020's other key achievements were:

- Defeating a bill that would have banned surprise billing for patients, but only by setting a fixed rate for insurance companies to pay hospitals for out-of-network emergency care. Fixed benchmark rates threaten access to care by compromising critical resources.
- Passing a bill, co-sponsored with the National Alliance on Mental Illness California, that allows hospitals and their emergency departments to use telehealth to assess and evaluate individuals placed on involuntary holds for a psychiatric crisis — helping them get the expedited crisis care and timely follow-up they deserve.
- Improving two bills that require hospitals to have personal protective equipment stockpiles. While the bills originally required an enormous stockpile, CHA negotiated to significantly moderate the requirements.
- Helping pass a bill that will expand access to care for millions of Californians by authorizing nurse practitioners who meet certain requirements to practice to the full extent of their training and without physician supervision in certain environments.
- Defeating a last-minute attempt to require hospitals to submit — by the end of the year— real-time admit, discharge, and transfer data to a single data repository.
- Defeating a bill that would have given workers' compensation benefits to hospital employees with certain illnesses and injuries — including musculoskeletal injuries, infectious diseases, and respiratory diseases — unless the hospital could provide evidence the employee did not contract the illness or injury at work.
- Defeating two bills that would have created COVID-19-related presumptions for direct patient care workers, including those in hospitals, as well as police officers, firefighters, and other essential workers. These bills also included intent language for hospitals to cover other living expenses for health care workers, such as housing.

Among our challenges for next year: This year's seismic mandate reform bill succumbed to a tough political battle in the final days. Its core goals — an advisory task force to rethink disaster preparedness in California and a moderate seismic deadline extension — were gutted at the last minute, and the political leaders who supported the bill were unable to rectify those changes. We will be right back at it next year, as addressing the hospital seismic standard for 2030 remains our top priority.

Looking to the beginning of a new two-year legislative session in January, we know that, as you did this year, hospitals will pull together to lend their voices to the important conversations that shape policy and help them care for all Californians, in all ways.

Thank you to all of our hospitals — along with the Regional Associations, constituency groups, allied organizations, hospital trustees, CEOs, volunteers, employees, and others — for your dedication, your compassion, and your countless contributions.

A handwritten signature in black ink that reads "Carmela Coyle".

Carmela Coyle, President & CEO

# New Laws With High Impact

Among the many health care-related laws enacted this year are several that impact overall hospital operations or require hospitals to take steps to implement. Following are summaries of those laws, which hospital leaders may want to share with key members of their teams.

## *Telehealth for involuntary psychiatric hold*

### ► [AB 3242](#) (Irwin, D-Thousand Oaks) ■ ■ ●

Co-sponsored by CHA and the National Alliance on Mental Illness California, allows the use of telehealth for individuals placed on a Lanterman-Petris-Short 5150/5151 involuntary hold. Will expedite access to clinicians for the required examination, assessment, and evaluation.

## *Nurse practitioners: full practice authority*

### ► [AB 890](#) (Wood, D-Santa Rosa) ■ ●

Allows a nurse practitioner who meets certain education, experience, and certification requirements to order and perform, in specified settings and organizations, medical functions without standardized procedures. Beginning Jan. 1, 2023, the law also authorizes board-certified nurse practitioners to perform those functions outside of specified settings and organizations in accordance with certain requirements. Establishes a Nurse Practitioner Advisory Committee within the Board of Registered Nursing to provide guidance on disciplinary action against a nurse practitioner.

## *Hospital inventory of PPE*

### ► [AB 2537](#) (Rodriguez, D-Pomona) ■

Requires acute care hospitals to have a 90-day stockpile of specified personal protective equipment as of April 1, 2021, unless the hospital can show it could not meet the requirement due to issues beyond its control.

## *Hospital and state inventory of PPE*

### ► [SB 275](#) (Pan, D-Sacramento) ■

Requires the creation of a Personal Protective Equipment (PPE) Advisory Committee, which will include hospital and health care supply chain experts, to provide recommendations for establishing a state PPE stockpile, as well as health facility PPE inventory requirements. Requires the Department of Industrial Relations to create regulations for hospital inventory requirements after considering the recommendations of the advisory committee. Requires health facilities to maintain a 45-day surge inventory of PPE by Jan. 1, 2023, or one year after the regulations are adopted, whichever is later.

## *COVID-19 workers' compensation presumption*

### ► [SB 1159](#) (Hill, D-San Mateo) ●

This urgency legislation took effect on Sept. 17. Creates a presumption in the workers' compensation system that health facility employees who test positive for COVID-19 contracted the virus on the job.

Includes a CHA-requested amendment to create two evidentiary standards to rebut the presumption based on whether a health facility employee provides direct patient care or is a custodial employee in contact with COVID-19 patients. Creates a presumption for employees outside of police, fire, and health care that arises if there is a COVID-19 outbreak in the workplace.

*COVID-19 supplemental  
paid sick leave*

► **[AB 1867](#) (Assembly Committee on Budget)** ●

This urgency legislation took effect on Sept. 19. It requires all employers that are exempt from the paid leave provisions of the Families First Coronavirus Response Act to provide up to 80 hours of supplemental COVID-19 paid sick leave for employees who are directed to quarantine, isolate, or not report to work due to concerns about virus transmission. Includes CHA-requested amendments to allow employers to take a credit for any supplemental COVID-19 paid sick leave already provided.

*Nurse-midwives: scope  
of practice*

► **[SB 1237](#) (Dodd, D-Napa)** ■ ●

Allows a certified nurse-midwife to attend cases of low-risk pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care — including family planning services, interconception care, and immediate care of the newborn — without physician supervision.

# Legislative Summary

Following are brief descriptions of bills enacted during the second year of the 2019-20 legislative session that directly impact hospitals. The full text of each new law is available at <http://leginfo.legislature.ca.gov/>. Each measure is categorized by subject, alphabetically, and indicates which hospital team members should take necessary steps to come into compliance (see legend at bottom of each page). In addition, the laws are indexed by author, bill number, and staff role. All bills will take effect on Jan. 1, 2021, unless otherwise noted.

## State Budget

Due to the economic recession that has resulted from the COVID-19 pandemic, the state faced a budget shortfall of \$54 billion in May. However, the budget signed into law avoids most of the deep cuts proposed by the Administration.

### *This year's budget*

- Rejects a CHA-opposed proposal to cut certain managed care payments that would have reduced Medi-Cal payments to hospitals by as much as \$500 million per year.
- Contains no cuts to aging programs, nor the elimination of Medi-Cal optional benefits.
- Contains no cuts to Proposition 56 in this fiscal year. However, as of July 1, 2021, it suspends the Value-Based Payments program and supplemental payments to Medi-Cal providers from Proposition 56, unless the Department of Finance estimates that General Fund revenues sufficiently exceed expenditures to support these programs and payments.
- Establishes the Health Care Payments Data Program to collect data on health care expenditures for inclusion in a Health Care Payments Data System. The data system will collect information on health care costs, utilization, quality, and equity to provide greater transparency and inform public policy decisions.
- Authorizes the Department of Health Care Services (DHCS) to extend COVID-19 coverage to uninsured individuals for the duration of the COVID-19 emergency.
- Authorizes DHCS, in consultation with stakeholders, to seek federal approval for a temporary extension of all or select components of the state's 1115 waiver demonstration project, Medi-Cal 2020, which is scheduled to expire on Dec. 31, 2020.
- Provides flexibility to counties for Mental Health Services Act funds, including allowing them to use prudent reserve funds for mental health expenditures for children and adults, including housing assistance.
- Authorizes DHCS to negotiate prescription drug rebates on behalf of non-Medi-Cal populations, and eliminates the monthly limit of six prescriptions and the \$1 prescription copayment for Medi-Cal beneficiaries in the fee-for-service delivery system.

## Civil Actions/Legal

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### Wrongful death

#### ► [AB 2445](#) (Reyes, D-San Bernardino) ●

This urgency bill took effect on Sept. 9. Allows a decedent's legal guardians to bring a wrongful death action in the same circumstances that legal parents can, if the parents are deceased. Also allows legal guardians to bring a wrongful death action if they were dependent on the decedent and the decedent's parents are deceased, even in cases where the legal parents could not have brought an action.

### Price gouging

#### ► [SB 1196](#) (Umberg, D-Santa Ana) ●

Expands the crime of price gouging to provide that, if a seller did not charge a price for relevant goods or services immediately prior to a declaration of emergency that triggers price gouging protections, it may not charge a price more than 50% greater than either the amount the seller paid for the goods or the seller's costs in selling or providing the goods or services. Also clarifies that a pandemic or epidemic disease is included in the circumstances that may lead to a declaration of a state or local emergency triggering price gouging prohibitions; the protections apply to goods and services offered or sold in person, in stores, or online; and the time frame of the price gouging protections.

## Clinical

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### Richard Paul Hemann Parkinson's Disease Program

#### ► [AB 2821](#) (Nazarian, D-Van Nuys) ■

Requires the California Department of Public Health to extend the Richard Paul Hemann Parkinson's Disease Program, which includes collecting data on Parkinson's disease in California, until Jan. 1, 2022.

## Emergency Services

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### Community Paramedicine or Triage to Alternate Destination Act

#### ► [AB 1544](#) (Gipson, D-Carson) ■

Requires the Emergency Medical Services Authority to establish minimum standards for the development of community paramedicine and triage to alternate destination programs. Also requires an advisory committee to oversee the development and oversight of these specialty programs.

### Air ambulance services

#### ► [AB 2450](#) (Grayson, D-Concord) ■

This urgency legislation took effect on Sept. 9. Extends the assessment of an additional \$4 for Vehicle Code penalties for deposit into the Emergency Medical Air Transportation and Children's Coverage fund until July 1, 2021.

## Employment Issues

### COVID-19 employee exposure, notification

#### ► [AB 685](#) (Reyes, D-San Bernardino) ●

Requires employers to provide notice to employees and their representatives when an employee has been exposed to COVID-19 in the workplace. Includes a CHA-requested amendment to provide exceptions for individuals who, as part of their duties, conduct COVID-19 testing or screening, or provide direct patient care or treatment to individuals who are known to have tested positive for COVID-19, are persons under investigation, or are in quarantine or isolation related to COVID-19.

### COVID-19 supplemental paid sick leave

#### ► [AB 1867](#) (Assembly Committee on Budget) ●

This urgency legislation took effect on Sept. 19. It requires all employers that are exempt from the paid leave provisions of the Families First Coronavirus Response Act to provide up to 80 hours of supplemental COVID-19 paid sick leave for employees who are directed to quarantine, isolate, or not report to work due to concerns about virus transmission. Includes CHA-requested amendments to allow employers to take a credit for any supplemental COVID-19 paid sick leave already provided.

### Worker classification: employees and independent contractors

#### ► [AB 2257](#) (Gonzalez, D-San Diego) ●

This urgency legislation took effect on Sept. 4. Revises AB 5, the 2019 independent contractor legislation. Modifies the business-to-business requirements in a way that may provide opportunities for independent contractor relationships for direct patient care roles. Adds numerous new exemptions from the “ABC” test, but none within the health care context.

### Hospital inventory of PPE

#### ► [AB 2537](#) (Rodriguez, D-Pomona) ■

Requires acute care hospitals to have a 90-day stockpile of specified personal protective equipment as of April 1, 2021, unless the hospital can show it could not meet the requirement due to issues beyond its control.

### Employee costs for educational programs and training

#### ► [AB 2588](#) (Kalra, D-San Jose) ●

Prohibits general acute care hospitals from requiring a job applicant to agree to repay any costs associated with training or education that is required or provided by the employer. Intended for nurse residency programs but may have broader implications.

### Hospital and state inventory of PPE

#### ► [SB 275](#) (Pan, D-Sacramento) ■

Requires the creation of a Personal Protective Equipment (PPE) Advisory Committee, which will include hospital and health care supply chain experts, to provide recommendations for establishing a state PPE stockpile, as well as health facility PPE inventory requirements. Requires the Department of Industrial Relations to create regulations for hospital inventory requirements after considering the recommendations of the advisory committee. Requires health facilities to



maintain a 45-day surge inventory of PPE by Jan. 1, 2023, or one year after the regulations are adopted, whichever is later.

#### *Employer annual pay data reporting*

##### ► **[SB 973](#) (Jackson, D-Santa Barbara) ●**

Beginning March 31, 2021, and on an annual basis, requires employers with 100 or more employees that are required to file an EEO-1 report to file a pay data report with the state. Required information includes: the number of employees by race, ethnicity, and sex in 10 specified job categories; the number of employees by race, ethnicity, and sex whose annual earnings fall within each of the pay bands used by the federal Bureau of Labor Statistics in the Occupational Employment Statistics survey; and the total number of hours worked by employees in each pay band.

#### *COVID-19 workers' compensation presumption*

##### ► **[SB 1159](#) (Hill, D-San Mateo) ●**

This urgency legislation took effect on Sept. 17. Creates a presumption in the workers' compensation system that health facility employees who test positive for COVID-19 contracted the virus on the job. Includes a CHA-requested amendment to create two evidentiary standards to rebut the presumption based on whether a health facility employee provides direct patient care or is a custodial employee in contact with COVID-19 patients. Creates a presumption for employees outside of police, fire, and health care that arises if there is a COVID-19 outbreak in the workplace.

#### *Unlawful employment practice: California Family Rights Act*

##### ► **[SB 1383](#) (Jackson, D-Santa Barbara) ●**

Expands the California Family Rights Act to allow employees to take an unpaid leave of absence of up to 12 work weeks to care for a grandparent, grandchild, sibling, adult child, or domestic partner. Also expands coverage to employers with five or more employees.

## Health Facilities

#### *Health facilities: notices*

##### ► **[AB 2037](#) (Wicks, D-Oakland) ■ ●**

Increases from 90 to 180 days the notice hospitals must provide their health care partners, the California Department of Public Health, and the community when reducing or eliminating emergency medical services. It also increases from 30 to 120 days the required notice to a hospital's community when it is closing and increases from 30 to 90 days the notice to its community when it is eliminating or relocating a supplemental service. CHA was instrumental in getting onerous provisions removed from the bill that would have prevented a hospital from reducing any services or entering into a purchase agreement during a health-related state of emergency.

## Mental/Behavioral Health

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### Suicide prevention

#### ▶ [AB 2112](#) (Ramos, D-Highland) ■

Establishes the Office of Suicide Prevention within the California Department of Public Health to provide information and technical assistance, conduct statewide assessments, and monitor data in an effort to reduce suicide rates.

### Telehealth for involuntary psychiatric hold

#### ▶ [AB 3242](#) (Irwin, D-Thousand Oaks) ■ ■ ●

Co-sponsored by CHA and the National Alliance on Mental Illness California, allows the use of telehealth for individuals placed on a Lanterman-Petris-Short 5150/5151 involuntary hold. Will expedite access to clinicians for the required examination, assessment, and evaluation.

## Pharmacy

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### Pharmacist administration of COVID-19 vaccine

#### ▶ [AB 1710](#) (Wood, D-Santa Rosa) ■

Allows a pharmacist to independently initiate and administer a COVID-19 vaccine approved or authorized by the Food and Drug Administration.

### Hypodermic needles and syringes

#### ▶ [AB 2077](#) (Ting, D-San Francisco) ■

Allows the sale of hypodermic needles and syringes without a prescription from a physician, dentist, podiatrist, or naturopathic doctor.

## Privacy and Personal Information

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### California Consumer Privacy Act of 2018

#### ▶ [AB 713](#) (Mullin, D-San Mateo) ●

This urgency legislation took effect on Sept. 25. Exempts from the California Consumer Privacy Act (CCPA) information that was deidentified in accordance with HIPAA or other specified federal law, derived from health information, or used or disclosed for research purposes. Also exempts business associates of covered entities. Prohibits a business or other person from reidentifying information that was deidentified, unless a specified exception is met. Requires a contract for the sale or license of deidentified information, to include specified provisions relating to the prohibition of reidentification. Requires a business that sells or discloses information that was deidentified in accordance with HIPAA or other specified federal law or that was derived from health information to also disclose whether it does and, if so, the method used to deidentify that information. *As a reminder, the CCPA does not apply to not-for-profit facilities (unless affiliated with an investor-owned business) or to information subject to HIPAA or state health information privacy laws.*

### California Consumer Privacy Act of 2018

#### ▶ [AB 1281](#) (Chau, D-Arcadia) ●

Extends for one year — until Jan. 1, 2022 — an exemption in the California Consumer Privacy Act (CCPA) for data and information held by a business about a job applicant, employee, owner,

director, officer, medical staff member, or contractor of a business. *As a reminder, the CCPA does not apply to not-for-profit facilities (unless affiliated with an investor-owned business) or to information subject to HIPAA or state health information privacy laws.*

#### Mandated child abuse or neglect reporters

##### ► [AB 1963](#) (Chu, D-San Jose) ■ ●

Adds human resource employees to the list of mandated child abuse reporters for businesses that employ minors. Also requires child abuse reporting by any adult whose duties require direct contact with and supervision of minors in the workplace, if the suspected abuse involves sexual abuse. Employers are required to train employees who are mandated reporters on child abuse identification and reporting. Applies to businesses with five or more employees.

#### Access to medical records

##### ► [AB 2520](#) (Chiu, D-San Francisco) ●

Allows health care providers to honor a release of information form that has been signed by the patient (or representative) electronically. Requires providers to give patients and nonprofit legal services entities a free copy of the portion of the medical record needed to support a claim or appeal regarding eligibility for a specified public benefit program, petition for U nonimmigrant status under the Victims of Trafficking and Violence Protection Act, or a self-petition for lawful permanent residency under the Violence Against Women Act. Prohibits health care providers from charging a fee to fill out forms needed to support a claim or appeal.

## Professional Licensure

#### Nurse practitioners: full practice authority

##### ► [AB 890](#) (Wood, D-Santa Rosa) ■ ●

Allows a nurse practitioner who meets certain education, experience, and certification requirements to order and perform, in specified settings and organizations, medical functions without standardized procedures. Beginning Jan. 1, 2023, the law also authorizes board-certified nurse practitioners to perform those functions outside of specified settings and organizations in accordance with certain requirements. Establishes a Nurse Practitioner Advisory Committee within the Board of Registered Nursing to provide guidance on disciplinary action against a nurse practitioner.

#### Refugees, asylees, and Special Immigrant Visa holders

##### ► [AB 2113](#) (Low, D-Silicon Valley) ■

Requires licensing boards under the Department of Consumer Affairs to expedite, and authorizes them to assist, the initial licensure process for refugees, those who have been granted asylum, and holders of Special Immigrant Visas.

#### Academic medical center special faculty permits

##### ► [AB 2273](#) (Bloom, D-Santa Monica) ■ ●

Allows academic medical centers to submit applications for Special Faculty Permits (SFP) to the Medical Board of California, and authorizes SFP holders, visiting fellows, and holders of a certificate of registration to practice medicine within the academic medical center and its affiliated facilities.

*Nursing programs: state of emergency*▶ **[AB 2288](#)** (Low, D-Silicon Valley) ■

This urgency legislation took effect on Sept. 29. Authorizes the director of an approved nursing program to obtain approval from the Board of Registered Nursing to revise clinical experience requirements. Authorizes the reduction of direct patient care hours and allows the use of preceptorships without having to maintain specified written policies during a declared state of emergency if the approved nursing program meets certain requirements, until the end of the declared emergency or the end of academic year 2020-21, whichever is sooner.

*Department of Consumer Affairs: licensing application time frames*▶ **[SB 878](#)** (Jones, R-El Cajon) ■

Requires licensing boards under the Department of Consumer Affairs, on at least a quarterly basis, to prominently display on their website either the current average time frames for processing initial and renewal license applications or the combined current average time frame for processing both initial and renewal license applications.

*Nurse-midwives: scope of practice*▶ **[SB 1237](#)** (Dodd, D-Napa) ■ ●

Allows a certified nurse-midwife to attend cases of low-risk pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care — including family planning services, interconception care, and immediate care of the newborn — without physician supervision.

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## Public Reporting and Meetings

*Open meetings: local agencies and social media*▶ **[AB 992](#)** (Mullin, D-San Mateo) ●

Provides that the Brown Act does not prohibit a member of a local agency's legislative body from engaging in communications on an internet-based social media platform to answer questions or provide information to the public, or solicit information from the public on matters under their jurisdiction, as long as members do not discuss among themselves business of a specific nature within their jurisdiction.

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## Skilled-Nursing and Long-Term Care Facilities

*Reporting during public health emergency*▶ **[AB 2644](#)** (Wood, D-Santa Rosa) ■ ●

Requires skilled-nursing facilities — during a declared emergency related to a communicable disease — to report each disease-related death to the California Department of Public Health (CDPH) within 24 hours. Requires CDPH to make the total number of disease-related deaths reported, and the location at which they occurred, available on its website on a weekly basis in a manner that protects patients' privacy. Also requires skilled-nursing facilities to notify residents and their representatives about cases of the disease, as well as to have a full-time infection preventionist. CHA secured amendments that addressed roles, responsibilities, and definitions.

*Medi-Cal: California  
Community Transitions  
program*

► **[SB 214](#) (Dodd, D-Napa)** ■

This urgency legislation took effect Sept. 29. Requires the Department of Health Care Services to provide services consistent with the Money Follows the Person Rebalancing Demonstration Program, until Jan. 1, 2024, to facilitate transitioning certain individuals out of inpatient facilities.

## Taxation

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*Exclusion of Paycheck  
Protection Program loans*

► **[AB 1577](#) (Burke, D-Inglewood)** ■

This urgency legislation took effect on Sept. 9. Conforms California law to federal law to allow California small businesses to exclude the amount of Paycheck Protection Program loans received under the Coronavirus Aid, Relief, and Economic Security Act for state tax purposes, and denies the business expense deduction for expenses that were paid for using forgiven loan funds.

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