



SENATE FLOOR ALERT

August 30, 2021

TO: The Honorable Members of the California State Senate

FROM: Alex Hawthorne, VP State Relations & Advocacy

SUBJECT: **AB 858 (Jones-Sawyer) – OPPOSE**

Maintaining quality of care and safety for patients and staff is a guiding principle for all California hospitals every day, not just during a pandemic. Hospitals are committed to serving their communities by adhering to the most current medical practices and using health information technology (IT) to enhance a health care provider's decision-making to provide the highest quality of care to all Californians, regardless of race or social status.

Assembly Bill (AB) 858 (Jones-Sawyer) seeks to allow nurses and clinicians to override algorithms used for best clinical practices. It also outlines activities hospitals should take to utilize employee health IT, education, training, and quality assurance, which already exist in hospitals and health systems. And finally, there are complex hospital operational processes currently in place to assure quality patient care. If enacted, this bill would expose hospitals to untenable liability issues. **The California Hospital Association (CHA) believes much of the bill is unwarranted and replicates regulations already in place in California Business and Professions (B&P) Code and California Health and Safety (H&S) Code.**

The bill, as written, is in the labor code. The Private Attorney General Act (PAGA) is a unique feature in California law — it gives a broad private right of action to nearly the entirety of the California Labor Code. Generally, most private rights of action are more narrowly tailored. As a result, relatively small violations of the law (including violations where no harm occurred) can trigger the provisions of PAGA and result in a lawsuit for employers, generating large fees for plaintiffs but small awards for workers. According to a recent study authored by the former director of the Department of Industrial Relations and former chief of the Division of Occupational Safety and Health, the average PAGA award per employee was \$2,078; the average attorney fee was \$405,724.

For those reasons, CHA and its more than 400 hospital and health system members ask for a “NO” vote on AB 858.