



April 19, 2022

The Honorable Richard Pan, MD
Chair, Senate Health Committee
1021 O St., Room 3310
Sacramento, CA 95814

SUBJECT: SB 979 (Dodd) — SPONSOR

Dear Senator Pan:

Hospitals and health systems have been at the forefront of caring for patients during the COVID-19 pandemic. Among the lessons learned from the pandemic is that California’s health care delivery system functions best with clear and consistent statewide flexibilities and direction. However, during a declared emergency, key state agencies don’t have the authority they need to act swiftly and ensure patients in California hospitals can get the care they need when they need it most. Senate Bill (SB) 979 (Dodd, D-Napa) would streamline the process for critical state agencies to respond to and support the health care delivery system when the governor declares a state of emergency, or the state public health officer declares a public health emergency.

Currently, the California Department of Public Health (CDPH) and the Department of Health Care Access and Information (HCAI) do not have the ability to proactively grant regulatory flexibility for multiple facilities in a region — or statewide — simultaneously, even during a state of emergency. For example, a hospital may need to convert cafeteria space to patient care space due to a surge of patients in a mass shooting event. Or, if the shooting took place at a school, a hospital may need to place pediatric patients in “adult” beds if it didn’t have enough pediatric beds. Under current law, each hospital must submit a written application to — and await written approval from — CDPH and HCAI before caring for patients in an atypical space or wait until the governor issues an executive order in addition to declaring a state of emergency. This process may simply take too long in an emergency.

Similarly, even if the governor has declared a state of emergency, current law does not allow the Emergency Medical Services Authority (EMSA) to approve out-of-state-licensed health care personnel — such as doctors and nurses — to immediately work in California without first obtaining a California license (which takes 10-12 weeks). During the pandemic, this lack of authority made it difficult for hospitals to plan for staffing and to secure out-of-state traveling nurses and other health care professionals.

In contrast, the Department of Managed Health Care (DMHC) and the Department of Insurance (DI) have automatic authority during a state of emergency. This includes the authority to take specified actions, such as requiring health plans to approve patients to see out-of-network providers if in-network

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providers are unavailable or relax time limits for prior authorization or filing claims. However, DMHC and Department of Insurance have this authority only when enrollees or the insured are physically “displaced” due to the emergency. During a pandemic like COVID-19, individuals are not physically displaced, so this DMHC/DI authority doesn’t apply.

SB 979 would allow the following during a declared state of emergency or public health emergency:

- CDPH and HCAI would have the authority to issue waivers related to hospital space, bed classification, and administrative matters on a regional or statewide basis. However, this proposal would not allow CDPH to waive nurse staffing ratios without both a declared state of emergency or public health order and a governor’s executive order.
- EMSA would have the authority to immediately allow out-of-state health care professionals to practice in California.
- DMHC and the DI would have the authority to require health plans and insurers to take additional steps to assist consumers “affected” by a disaster, even if they are not “displaced.”

For these reasons, CHA and its more than 400 hospital and health system members request your “AYE” vote on SB 979 when it comes before your committee.

Sincerely,



Kathryn Austin Scott
Senior Vice President, State Relations and Advocacy

cc: The Honorable Bill Dodd
Members of the Senate Health Committee
Vincent Marchand, Consultant, Senate Health Committee
Joe Parra, Consultant, Senate Republic Caucus