# 2022 REPORT ON STATE LEGISLATION

California Hospital Association

Hospital Council Northern & Central California

HOSPITAL ASSOCIATION of Southern California

HOSPITAL ASSOCIATION of San Diego & Imperial Counties

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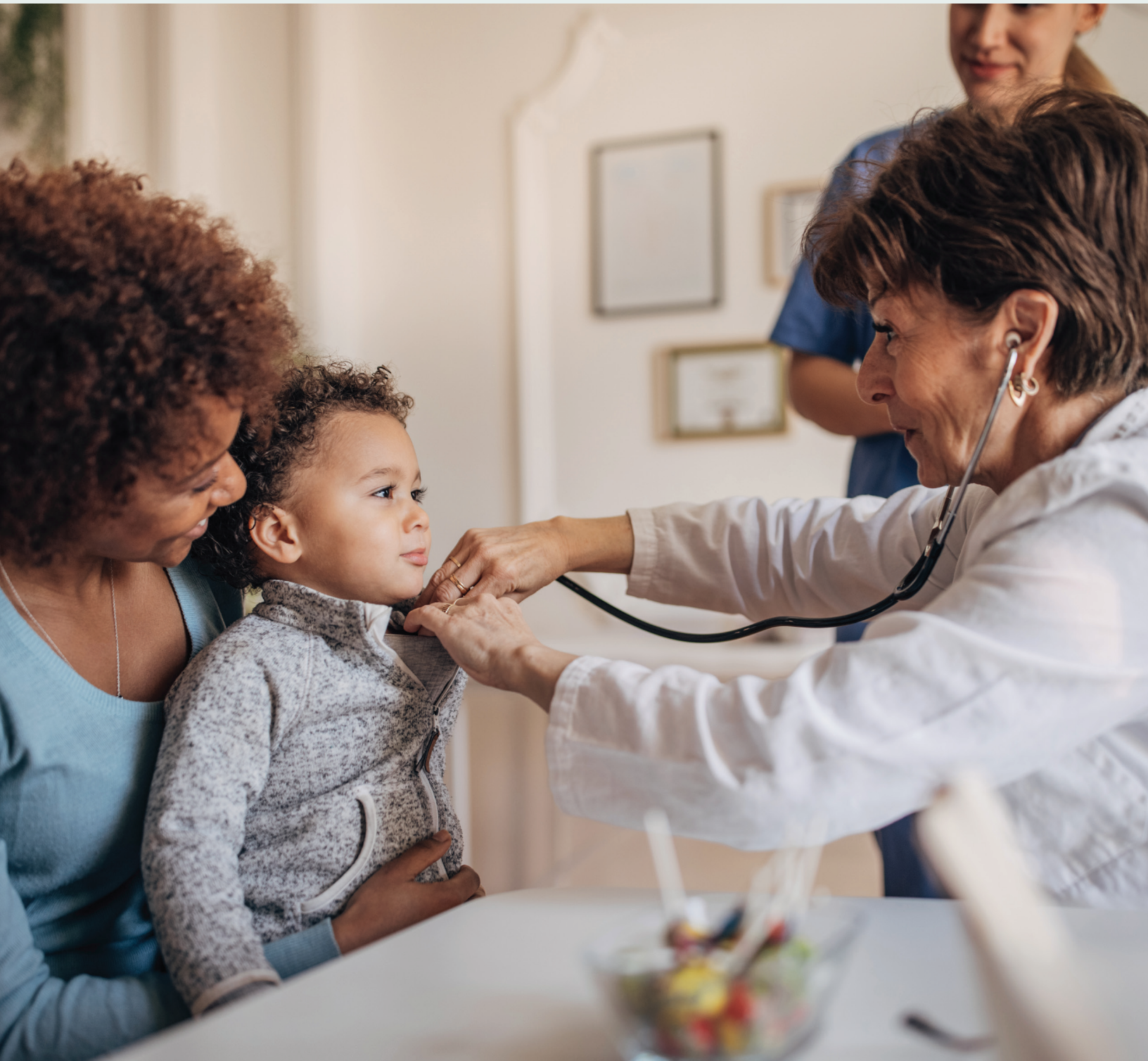


# President & CEO Message

**Carmela Coyle**
President & CEO

CHA's 2022 *Report on State Legislation* summarizes the year's most significant health care bills and serves as a handy reference to help hospitals comply with new laws. This report is designed to be shared with your leadership team so they are apprised of new laws and can take any steps needed to implement the requirements. As you have continued to care for all Californians, CHA has worked with the Legislature to secure the most favorable outcome possible on dozens of bills that affect hospitals.

One of the most important pieces of legislation is a bill that modernizes the Medical Injury Compensation Reform Act while maintaining important medical liability protections. As part of a broad coalition, CHA helped craft a historic agreement that ensures access to care while guaranteeing that patients and their families are cared for in all ways in the unfortunate case of a health care-related injury or death.

Two other bills would have had profound, negative implications for hospital finances and operations.

CHA was able to defeat a bill that would have prohibited providers from entering into many forms of care arrangements and created a massive expansion of authority for the attorney general to approve, deny, or impose unlimited conditions on health care providers seeking to partner. A bill that would have devastated hospitals by creating a rebuttable presumption in the workers' compensation system, essentially requiring hospitals to accept more claims with little to no evidence that they are work-related, was also defeated.

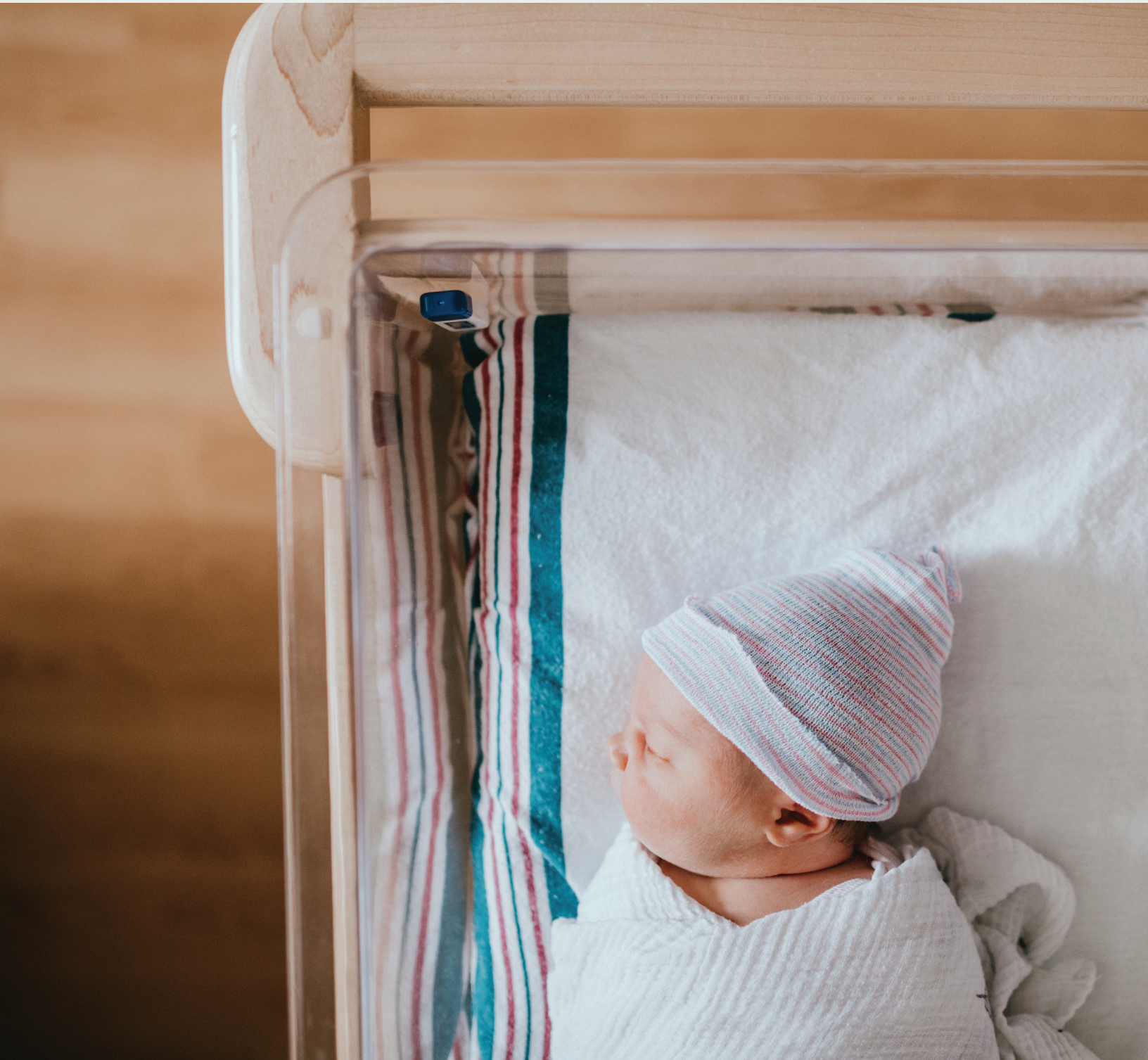
**Among 2022's other key achievements:**

- Helped secure over $1.4 billion in workforce development investments for behavioral health, public health, primary care, clinic, and reproductive health to address the state's acute shortage of health care professionals
- Worked closely with the administration and other stakeholders to resolve implementation issues with $1 billion in funding for health care worker retention payments, so that hospitals can administer the funds and workers can receive the maximum amount.
- Defeated a budget proposal to require not-for-profit hospitals to use a specific amount of their community benefits dollars on specific activities, allowing little flexibility to tailor their funding to identified community health care-related priorities.

In the midst of a pandemic, and all other times, California's hospitals are asked to do so much — and often with less. That's why your continued engagement is vital and more important than ever as we work to shape health policy in California that meets the needs of all.

If you have questions about any of the new laws noted in this report, please contact Lois Richardson at lrichardson@calhospital.org.

# New Laws with High Impact



# 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 them. The following are summaries of those laws, which hospital leaders may want to share with key members of their teams.**

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

## MICRA reform

**AB 35** *(Reyes, D-San Bernardino)* ●

Adjusts the Medical Injury Compensation Reform Act's cap on non-economic damages, which is currently limited to $250,000. Effective Jan. 1, 2023, this limit will be increased to $350,000 for non-death cases and $500,000 for death cases, followed by incremental increases over the next 10 years to $750,000 for non-death cases and $1 million for death cases; a 2% annual inflationary adjustment will be applied thereafter. It also creates three separate categories of caps that may apply depending on the facts of each case, but no defendant can be held liable for damages under more than one category. Also increases the minimum amount of the judgment required to request periodic payments, substantially expands the legal protections for benevolent gestures and acceptance of fault, and restructures and increases the contingent fees a plaintiff's attorney may charge.

## Health care workforce investments

**Budget trailer bill** ■ ■

The budget commits over $1.4 billion over the next three years to support health care workforce development programs including, but not limited to:

- Nursing ($357 million)
- Community health workers ($281 million)
- Behavioral health ($226 million)
- Primary care ($45 million)
- Reproductive health ($40 million)
- Others

A breakdown of the workforce investments that affect hospitals can be found in this document. The Department of Health Care Access and Information will serve as the administering agency for most of the programs. Guidance on how to access these funds will be released in the coming months by the administering departments.

## New Laws with High Impact

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

### Office of Health Care Affordability

**AB 204** *(Committee on Budget)* ■

The budget authorizes and funds the Office of Health Care Affordability (OHCA), which is housed within the Department of Health Care Access and Information. The office's goals are to improve health care affordability while promoting quality, equity, and workforce stability. Its key responsibilities are to increase transparency on costs, develop cost targets for the health care field, enforce compliance with cost targets, monitor and review market transactions, and establish new standards for measures such as quality and equity. Full implementation will occur over several years. CHA advocacy ensured that (1) providers have the opportunity to justify cost growth above cost targets due to factors like rising labor costs and state-mandated capital expenditures, (2) fewer non-hospital providers were exempt from oversight, and (3) the recognition of self-financing when OHCA tracks Medi-Cal expenditures. A recent CHA webinar provides more information on OHCA.

### Emergency flexibilities

**SB 979** *(Dodd, D-Napa)* ■

Gives state health plan and insurance regulators the authority to require health plans and insurers to take additional steps to assist their members whose health is affected by a disaster even if their members are not displaced, as required under current law. This CHA-sponsored bill will enable state regulators to hold health plans and insurers accountable for more timely and flexible service authorizations and referrals, ensure access to out-of-network providers when in-network providers are unavailable, extend claim-filing deadlines, and enable other changes to existing state rules.

### Hospital and nursing home worker retention pay

**SB 184** *(Senate Committee on Budget)* ■ ● ■

Creates the Hospital and Skilled Nursing Facility COVID-19 Worker Retention Pay Program, which provides payments up to $1,500 for specified full-time employees.

### Annual seismic compliance update

**AB 1882** *(R. Rivas, D-Salinas)* ●

Requires hospitals that have not yet met the 2030 seismic requirements to provide an annual status update on their seismic compliance to their local governments, labor unions, hospital board of directors, and certain state departments by Jan. 1, 2024. In addition, requires these hospitals to post a notice, to be provided by the Department of Health Care Access and Information by July 1, 2023, in the lobbies and waiting areas of hospital buildings that have not yet met the 2030 seismic requirements by Jan. 1, 2024. It also requires these hospitals to annually include information regarding the building's expected earthquake performance in emergency training, response, and recovery plans and capital outlay plans by July 1, 2023. CHA secured amendments that: removed a provision requiring annual attestations by hospital boards of directors that they are aware of the 2030 deadline; streamlined reporting requirements; and replaced erroneous descriptions of buildings that have not yet met the 2030 seismic requirements with more accurate descriptions of their structural integrity.

## New Laws with High Impact

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

### CARE Court Program

**SB 1338** *(Umberg, D-Santa Ana)* ■ ●

Enacts Gov. Gavin Newsom's Community Assistance, Recovery, and Empowerment (CARE) Court program, which will initially be implemented in seven counties: Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and the City and County of San Francisco. It authorizes a variety of individuals and agencies, including hospitals, to petition a civil court to begin CARE Court proceedings to order counties to evaluate and treat adults with a psychotic disorder who are unlikely to survive safely in the community and are substantially deteriorating. CHA requested amendments to more clearly require reimbursement for hospital services provided to individuals referred to CARE Court and was assured that the legislation holds health care payers responsible for covering participants' services.

### Care coordination, follow-up appointments

**AB 2242** *(Santiago, D-Los Angeles)* ■ ■ ●

Requires health care payers to provide individuals being released from involuntary psychiatric holds with a care coordination plan and first follow-up appointment. CHA worked with the author to ensure the bill holds managed care plans, not hospitals, responsible for carrying out care coordination responsibilities for their enrollees. Additionally, CHA worked with the author to require the state Department of Health Care Services to include CHA representatives in a stakeholder process to develop a model care coordination plan to be used by health care payers in the future.

### Involuntary commitment

**AB 2275** *(Wood, D-Santa Rosa)* ● ■

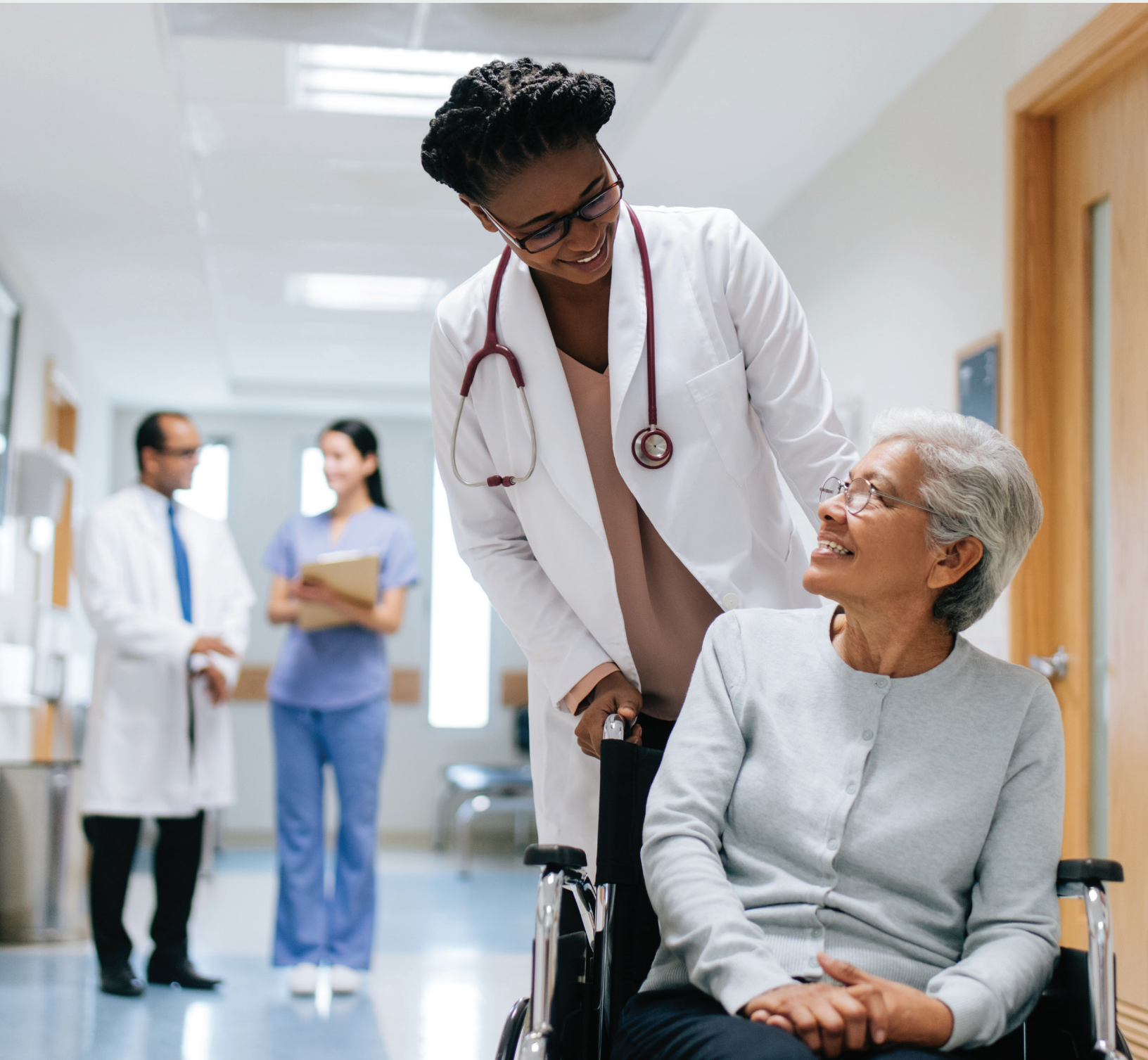
Specifies that the start of a 72-hour involuntary psychiatric hold begins when a person is first detained. It also conforms California statutes to case law entitling individuals to a certification hearing if they are not released from involuntary detention within seven days. CHA worked closely with the author, consumer rights advocates, and counties on earlier versions of the bill, which would have established new data reporting requirements for hospitals.

### COVID-19 relief: supplemental paid sick leave

**AB 152** *(Assembly Committee on Budget)* ■ ■

Extends to Dec. 31, 2022, the existing COVID-19 supplemental paid sick leave provisions that were set to expire on Sept. 30, 2022. The bill also specifies that the employer has no obligation to provide additional COVID-19 supplemental paid sick leave for employees who refuse to submit to COVID-19 tests permitted under existing law.

# Legislative Summary



# Legislative Summary

**Following are brief descriptions of bills enacted during the second year of the 2021-22 legislative session that directly impact hospitals. The full text of each new law is available on the Legislature's website. This report categorizes each issue by subject and alphabetically, and provides information about which hospital team members should take the 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 measures take effect on Jan. 1, 2023, except for budget items and legislation containing an urgency clause, which take effect when signed by the governor.**

This year's budget

## STATE BUDGET

The Legislature and governor approved a $308 billion budget for the state fiscal year July 2022 through June 2023. Below is a summary of key health care-related actions in the 2022-23 budget package.

### HEALTH CARE WORKFORCE

**Health Care Workforce Investments:** The budget commits over $1.4 billion over the next three years to support health care workforce development programs including, but not limited to:

- Nursing ($357 million)
- Community health workers ($281 million)
- Behavioral health ($226 million)
- Primary care ($45 million)
- Reproductive health ($40 million)
- Others

A breakdown of the workforce investments that affect hospitals can be found in this document. The Department of Health Care Access and Information will serve as the administering agency for most of the programs. Guidance on how to access these funds will be released in the coming months by the administering departments.

- **Hospital and Nursing Home Worker Retention Pay:** Provides nearly $1.1 billion in state funding to hospitals and nursing homes to make retention payments to their workers. Workers will be eligible for payments of up to $1,500 from the state, with state support varying based on hospital and nursing homes making qualifying matching payments to their workers.

- **Clinic Workforce Stabilization Retention Payments:** Includes $70 million to qualified clinics to make payments of up to $1,000 to each of their workers. Unlike the hospital and nursing home worker retention payments, no employer match is required for workers to be eligible for the maximum payment. Qualified clinics include federally qualified health centers and look-alikes, rural health clinics, free clinics, intermittent clinics, and Indian Health Centers.

### COVERAGE EXPANSIONS

- **Comprehensive Medi-Cal Coverage for All Undocumented Immigrants:** Expands full-scope Medi-Cal coverage to ages 26-49, regardless of immigration status. This is the last remaining age group of undocumented immigrants ineligible for full-scope coverage. Implementation is scheduled to take place in January 2024.

### BEHAVIORAL HEALTH

- **The Community Assistance, Recovery, and Empowerment (CARE) Act:** The budget funds and companion legislation authorizes the CARE Act, otherwise known as CARE Court, a framework for the delivery of behavioral health services for people with the most serious behavioral health needs, including individuals experiencing homelessness and/or at risk of incarceration. The CARE process is intended to serve as a diversion pathway from conservatorship and implementation will begin with select counties before phasing into a statewide transition.
- **Behavioral Health Bridge Housing:** Includes $1.5 billion over two years for cities and counties to provide bridge housing, such as board and care facilities, acquire tiny homes, and offer behavioral health services for individuals experiencing homelessness. Individuals with behavioral health needs are eligible for this support, with CARE Court participants being prioritized.
- **Children's Behavioral Health Package:** Provides $290 million over three years to address urgent youth mental health issues through school-based peer mental health services, the development of resources for parents to support their children's mental health, a youth suicide reporting and crisis response pilot program, the development of digital supports for remote mental health assessment and intervention, and a program to attract high school students who are considering entering the behavioral health profession. This package builds upon the $4.4 billion investment in 2021 in the Children and Youth Behavioral Health Initiative.
- **Mobile Crisis Intervention as a Medi-Cal Benefit:** Provides $108 million to counties to implement a new statewide mobile crisis intervention Medi-Cal benefit starting in January 2023. The benefit will build on existing crisis intervention services delivered by counties.
- **Opioid Package:** A $42 million package will support substance use disorder workforce development, naloxone distribution, and outreach and awareness campaigns.
- **988 Suicide Prevention Lifeline:** $8 million will support the initial implementation of the 988 National Suicide Prevention Lifeline that launched in July 2022. Legislation currently before the governor would authorize and provide ongoing funding for call centers to operate the lifeline.

### HEALTH CARE AFFORDABILITY

- **Office of Health Care Affordability (OHCA):** The budget authorizes and funds the OHCA (housed within the Department of Health Care Access and Information) whose goals are to improve health care affordability while promoting quality, equity, and workforce stability. Its key responsibilities are to increase transparency on costs, develop cost targets for the health care field, enforce compliance with cost targets, monitor and review market transactions, and establish new standards for measures such as quality and equity. Full implementation will occur over several years. CHA advocacy ensured that (1) providers have the opportunity to justify cost growth above cost targets due to factors like rising labor costs and state-mandated capital expenditures, (2) fewer non-hospital providers were exempt from oversight, and (3) the recognition of self-financing when OHCA tracks Medi-Cal expenditures. A recent CHA webinar provides more information on OHCA.
- **Elimination of Medi-Cal Premiums:** Historically, Medi-Cal beneficiaries with incomes above certain levels were required to pay premiums, typically around $13 per person per month. The budget eliminates these premiums, effective July 2022.

### OTHER MEDI-CAL POLICIES

- **Equity and Practice Transformation Payments:** A multi-year, $700 million initiative supports clinical infrastructure improvements aimed at improving children's preventive services, maternal and adolescent depression screening, follow-up after behavioral health-related emergency department visits, and reducing racial and ethnic disparities on measures of preventive services and Cesarean rates. Incentive payments to providers will be made through Medi-Cal managed care plans. Details are being developed.
- **Extension of Nursing Facility Financing Methodology:** The state's methodology to reimburse freestanding nursing facilities for Medi-Cal stays was set to expire, but the budget extends and makes changes to this methodology, effective January 2023 through December 2026. The updated methodology provides a 4% average annual rate increase, extends the 10% COVID-19 rate increase through 2023, establishes a new workforce and quality incentive program, and authorizes additional rate increases for facilities that meet new workforce standards.
- **Elimination of Certain Medi-Cal Provider Payment Reductions:** Allocates $20 million to eliminate certain Medi-Cal fee-for-service provider payment reductions that have been in place since the Great Recession, beginning July 2022. These include, but are not limited to, rates for the following providers: nurses, alternative birthing centers, oxygen and respiratory durable medical equipment providers, portable imaging services, emergency medical air transportation, surgical clinics, and outpatient heroin detoxification services.
- **Elimination of End-of-Year Delay in Fee-for-Service Payment Processing:** Since 2007, the state has delayed Medi-Cal fee-for-service payments from the last two weeks of the state fiscal year (June) to the beginning of the following fiscal year (July), a budget maneuver that resulted in one-time state savings. The 2022-23 budget eliminates this delay in payments beginning in June 2023 at a one-time cost of $796 million, with the goal of accelerating payments to providers.

### OTHER HEALTH

- **COVID-19 Supplemental Sick Leave Extension:** Extends the deadline for employees to use their existing COVID-19 supplemental paid sick leave from Sept. 30, 2022, to Dec. 31, 2022, and provides funding for nonprofit employers with fewer than 50 employees to offset some of the costs. Additionally, it allows employers to require employees to take a third test, at no cost to the employee and within 24 hours if an employee's second test is positive after an initial five-day isolation period. Finally, it allows employers to reject supplemental paid sick leave beyond the initial 40 hours if an employee refuses to take these tests.

- **Reproductive Health Package:** This $225 million package is designed to promote access to reproductive health care. This includes grants for reproductive health care providers that provide uncompensated care to uninsured and underinsured individuals, supplemental payments for non-hospital community clinics that provide abortion services, investments in the reproductive health care workforce, funding for physical and electronic infrastructure improvements at facilities that provide related services, coverage of the human papillomavirus vaccine within the Family Planning, Access, Care and Treatment Program, the backfill of lost Title X family planning funding, and more.

## Legislative Summary

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

## CIVIL ACTIONS/LEGAL

MICRA reform

**AB 35** *(Reyes, D-San Bernardino)* ●

Adjusts the Medical Injury Compensation Reform Act's cap on non-economic damages, which is currently limited to $250,000. Effective Jan. 1, 2023, this limit will be increased to $350,000 for non-death cases and $500,000 for death cases, followed by incremental increases over the next 10 years to $750,000 for non-death cases and $1 million for death cases; a 2% annual inflationary adjustment will be applied thereafter. It also creates three separate categories of caps that may apply depending on the facts of each case, but no defendant can be held liable for damages under more than one category. Also increases the minimum amount of the judgment required to request periodic payments, substantially expands the legal protections for benevolent gestures and acceptance of fault, and restructures and increases the contingent fees a plaintiff's attorney may charge.

## CLINICAL

Patients using cannabis

**AB 1954** *(Quirk, D-Hayward)* ■ ■ ●

Prohibits a physician from automatically denying treatment or medication to a qualified patient based solely on a positive drug screen for THC or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes a determination that such use is medically significant to the treatment or medication. The use of medical cannabis that has been recommended by a licensed physician shall not constitute the use of an illicit substance in this evaluation.

## Legislative Summary

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

Fentanyl screening

**SB 864** *(Melendez, R-Lake Elsinore)* ■ ■ ●

Requires a general acute care hospital to include a fentanyl screening whenever it conducts a urine drug screening for diagnostic purposes. "Urine drug screening" means a chemical analysis intended to test patients for the presence of multiple drugs, including cocaine, opioids, and phencyclidine.

Medicinal cannabis

**SB 988** *(Hueso, D-San Diego)* ●

Amends and clarifies the Compassionate Access to Medical Cannabis Act (Ryan's Law) enacted in 2021, which requires hospitals and other specified health care facilities to allow a terminally ill patient to use medicinal cannabis in the facility, subject to certain restrictions. Repeals the requirement that these facilities comply with drug and medication requirements applicable to Schedule II, III, and IV drugs when permitting patient use of medicinal cannabis. It also revises the requirements for how a health facility permits patient use of medicinal cannabis, including (1) requiring the patient or primary caregiver to be responsible for acquiring, retrieving, administering, and removing the medicinal cannabis; (2) requiring that it be stored securely in a locked container in the patient's room, another designated area, or with the patient's primary caregiver; and (3) prohibiting health care professionals and facility staff from administering medicinal cannabis or retrieving it from storage.

## EMPLOYMENT

COVID-19 relief: supplemental paid sick leave

**AB 152** *(Assembly Committee on Budget)* ■ ■

Extends to Dec. 31, 2022, the existing COVID-19 supplemental paid sick leave provisions that were set to expire on Sept. 30, 2022. The bill also specifies that the employer has no obligation to provide additional COVID-19 supplemental paid sick leave for employees who refuse to submit to COVID-19 tests permitted under existing law.

Discrimination in employment: use of cannabis

**AB 2188** *(Quirk, D-Hayward)* ● ■

Prohibits, on and after Jan. 1, 2024, an employer from discriminating against a person in hiring, termination, or any term or condition of employment based on (1) a screening test showing the presence of non-psychoactive cannabis metabolites or (2) the person's off-the-job use of cannabis, with some exceptions. Employers can continue to make employment decisions based on scientifically valid pre-employment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites, such as tests showing THC, which may indicate an individual is impaired.

COVID-19: exposure

**AB 2693** *(Reyes, D-San Bernardino)* ● ■

Extends existing COVID-19 notice and safety provisions to Jan. 1, 2024. The bill also permits employers to comply with the COVID-19 notice provisions by posting a general COVID-19 exposure notice where other notices concerning workplace rules and regulations are posted, as specified.

Hospital and nursing home worker retention pay

**SB 184** *(Senate Committee on Budget)* ■ ● ■

Creates the Hospital and Skilled Nursing Facility COVID-19 Worker Retention Pay Program, which provides up to $1,500 for specified full-time employees.

## Legislative Summary

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

Employment: salaries and wages

**SB 1162** *(Limón, D-Santa Barbara)* ■ ●
Revises the existing pay data report to include the median and mean hourly rate for each combination of race, ethnicity, and sex within each job category. This includes employees hired through a labor contractor and deletes a provision requiring employers with multiple establishments to submit a consolidated report. This bill also requires employers to provide an employee with the pay scale for the position in which the employee is currently employed.

Meal and rest periods: hospital employees

**SB 1334** *(Bradford, D-Gardena)* ■ ●
Existing law requires private sector employers to provide specified meal and rest periods to employees who provide direct patient care or support direct patient care. This bill applies those laws to public sector hospitals, clinics, and public health settings as well.

### HEALTH FACILITIES

Building standards: fire resistance based on occupancy risk categories

**AB 2322** *(Wood, D-Santa Rosa)* ■ ●
Requires the state fire marshal — prior to the next edition of the California Building Standards Code adopted after Jan. 1, 2023 — to propose to the Building Standards Commission mandatory building standards for fire resistance based on occupancy risk categories in California fire severity zones. These new building standards will apply to nonresidential, critical infrastructure buildings, including hospitals.

### HEALTH PLAN AND INSURER REGULATION

Prescription drug information

**AB 2352** *(Nazarian, D-Van Nuys)* ●
Requires health plans and insurers to make specified prescription drug information available upon the request of an enrollee or insured or their prescribing provider. This includes the enrollee or insured's eligibility for the prescription drug, the up-to-date drug formulary, and cost-sharing and applicable utilization management requirements for the prescription drug and other formulary alternatives.

Abortion cost-sharing

**SB 245** *(Gonzalez, D-Long Beach)* ■
Prohibits health plans and insurers from imposing cost-sharing requirements such as deductibles, copayments, and coinsurance, on abortions and abortion-related services. The bill also prohibits the imposition of utilization management and review on abortions and related services. The bill's requirements apply to Medi-Cal managed care plans, as well as health plans and delegated provider groups.

Health plan civil penalties

**SB 858** *(Wiener, D-San Francisco)* ●
Increases the base amount of a civil penalty levied on a health plan found to have violated the Knox-Keene Act from up to $2,500 per violation to up to $25,000 per violation. Beginning in January 2028, the maximum penalty amount will be adjusted every five years by the average rate of change in premium rates in the individual and small group markets.

## Legislative Summary

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

Emergency flexibilities

**SB 979** *(Dodd, D-Napa)* ■
Gives state health plan and insurance regulators the authority to require health plans and insurers to take additional steps to assist their members whose health is affected by a disaster even if their members are not displaced, as required under current law. This CHA-sponsored bill will enable state regulators to hold health plans and insurers accountable for more timely and flexible service authorizations and referrals, ensure access to out-of-network providers when in-network providers are unavailable, extend claim-filing deadlines, and enable other changes to existing state rules.

COVID-19 therapeutics coverage

**SB 1473** *(Pan, D-Sacramento)* ■
Requires health plans and insurers to cover, without cost-sharing or utilization management requirements, therapeutics for COVID-19 that are approved or granted emergency use authorization by the U.S. Food and Drug Administration. The bill requires reimbursement for COVID-19 therapeutics at negotiated rates for in-network providers and at reasonable rates for out-of-network providers. Beginning six months after the federal public health emergency expires, the bill permits health plans and insurers to no longer cover cost-sharing for COVID-19 diagnostic, screening, and related services when delivered by an out-of-network provider, except as otherwise required by law.

### MEDI-CAL

Violence prevention services

**AB 1929** *(Gabriel, D-Encino)* ■
Adds violence prevention services as a new covered benefit under Medi-Cal. The new benefit would be subject to medical necessity and utilization controls and would be implemented only to the extent the state receives federal approval. Violence prevention services are defined as "evidence-based, trauma-informed, and culturally responsive preventive services provided to reduce the incidence of violent injury or reinjury, trauma, and related harms and promote trauma recovery, stabilization, and improved health outcomes." Following federal approval, the state will be required to implement the new covered benefit through the issuance of All County Letters, All Plan Letters, and plan or provider bulletins.

Community health workers, promotoras benefits

**AB 2697** *(Aguiar-Curry, D-Davis)* ■
Requires the state to implement a community health worker (CHW) and promotoras benefit under the Medi-Cal program, subject to federal approval. It also defines CHW/promotoras services as preventive services to provide health education and navigation for specified target populations. Additionally, Medi-Cal managed care plans are required to engage in outreach and education efforts to providers about the benefit and conduct an assessment every three years on the capacity of CHW and promotoras. The state is also required to review the outreach and education plans developed by Medi-Cal managed care plans and publish an analysis of the CHW/promotoras benefit on its website that includes specified elements.

Medi-Cal alternate health care service plan

**AB 2724** *(Arambula, D-Fresno)* ■
Authorizes the Department of Health Care Services to directly contract with an alternate health care service plan, as defined, to serve as a Medi-Cal managed care plan in designated geographic regions of the state.

## Legislative Summary

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### MEDICAL STAFF

Unprofessional conduct: COVID-19

**AB 2098** *(Low, D-Cupertino)* ● ●
With respect to COVID-19, makes it unprofessional conduct for a physician to "disseminate" (limited to conveying information to a patient under the physician's care in the form of treatment or advice) "misinformation" or "disinformation" as defined in the bill, which includes false or misleading information regarding the nature and risks of the virus; its prevention and treatment; and the development, safety, and effectiveness of COVID-19 vaccines.

Special faculty permits

**AB 2178** *(Bloom, D-Santa Monica)* ●
Revises the definition of "academic medical center" for purposes of obtaining a special faculty permit from the Medical Board of California. The revision more accurately reflects the terms used by academic medical centers but does not change the requirements and standards for the institutions.

Licensee discipline: abortion

**AB 2626** *(Calderon, D-Whittier)* ● ●
Prohibits the Medical Board of California and the Osteopathic Medical Board of California from suspending or revoking a physician's certificate solely for performing an abortion if it is performed in accordance with the provisions of the Medical Practice Act and the Reproductive Privacy Act.

Nursing

**AB 2684** *(Berman, D-Menlo Park)* ■
The Board of Registered Nursing concluded its sunset review process and has been renewed until Jan. 1, 2027. Other provisions of the bill can be found online.

### MENTAL/BEHAVIORAL HEALTH

General acute care hospitals: suicide screening

**AB 1394** *(Irwin, D-Thousand Oaks)* ■ ● ●
Requires general acute care hospitals to have suicide prevention policies, procedures, and routine screening for patients ages 12 and older, by Jan. 1, 2025. CHA worked with the author to ensure hospitals would be able to meet these requirements and that the requirements are in accord with existing Joint Commission guidance on suicide screening.

Care coordination, follow-up appointments

**AB 2242** *(Santiago, D-Los Angeles)* ■ ● ■
Requires health care payers to provide individuals being released from involuntary psychiatric holds with a care coordination plan and first follow-up appointment. CHA worked with the author to ensure the bill holds managed care plans, not hospitals, responsible for carrying out care coordination responsibilities for their enrollees. Additionally, CHA worked with the author to require the state Department of Health Care Services to include CHA representatives in a stakeholder process to develop a model care coordination plan to be used by health care payers in the future.

## Legislative Summary

■ Clinical/Pharmacy/Laboratory ■ Finance ■ Hospital Operations ● Legal/Regulatory Compliance ● Medical Staff

Involuntary commitment

**AB 2275** *(Wood, D-Santa Rosa)* ● ■

Specifies that the start of a 72-hour involuntary psychiatric hold begins when a person is first detained. It also conforms California statutes to case law entitling individuals to a certification hearing if they are not released from involuntary detention within seven days. CHA worked closely with the author, consumer rights advocates, and counties on earlier versions of the bill, which would have established new data reporting requirements for hospitals.

Lanterman-Petris-Short Act data collection

**SB 929** *(Eggman, D-Stockton)* ● ■

To increase state oversight of involuntary psychiatric holds and conservatorships, this bill requires the Department of Health Care Services (DHCS) to annually publish substantially more information about local implementation of the Lanterman-Petris-Short (LPS) Act. Counties and entities involved in implementing those laws, including hospitals that are "LPS designated" by counties, will report quarterly data to DHCS on the numbers of persons involuntarily detained or admitted due to severe mental illness, as well as patient demographic and information about clinical outcomes, services provided, and waiting periods. Unfortunately, bill amendments removed language crafted by CHA that would have required DHCS to consult with reporting entities, including hospitals, to ensure the state uses the most efficient method to collect LPS data.

CARE Court Program

**SB 1338** *(Umberg, D-Santa Ana)* ● ■

Enacts Gov. Newsom's Community Assistance, Recovery, and Empowerment (CARE) Court program, which will initially be implemented in seven counties: Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and the City and County of San Francisco. It authorizes a variety of individuals and agencies, including hospitals, to petition a civil court to begin CARE Court proceedings to order counties to evaluate and treat adults with a psychotic disorder who are unlikely to survive safely in the community and are substantially deteriorating. CHA requested amendments to more clearly require reimbursement for hospital services provided to individuals referred to CARE Court and was assured that the legislation holds health care payers responsible for covering participants' services.

## PHARMACY

Insulin manufacturing

**SB 838** *(Pan, D-Sacramento)* ■

Existing law (the California Affordable Drug Manufacturing Act of 2020) requires the California Health and Human Services Agency to contract with a pharmaceutical manufacturer to create a California-branded label for generic drugs. This bill makes it easier for the state-pharmaceutical manufacturer partnership to produce at least one form of insulin that will be made available at production and dispensing costs while guaranteeing priority access for the state. It also requires the state to consider the volume of each generic prescription drug utilization over a multi-year period to help drive down the costs of the drug.

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### PRIVACY AND PERSONAL INFORMATION

**Immunization registry**

**AB 1797** *(Weber, D-San Diego)* ●
Requires (instead of permits, which is existing law) a health care provider to disclose immunization information and tuberculosis test results to local health departments operating an immunization registry and to the California Department of Public Health. This bill also requires providers to report each patient's race and ethnicity.

**Child abuse reporting**

**AB 2085** *(Holden, D-Pasadena)* ■ ● ●
Limits the definition of "general neglect" for purposes of mandated reporting under the Child Abuse and Neglect Reporting Act to include only circumstances where the child is at substantial risk of suffering serious physical harm or illness. Specifies that "general neglect" for this purpose "does not include a parent's economic disadvantage."

**Disclosure of information: reproductive health and foreign penal civil actions**

**AB 2091** *(Bonta, D-Alameda)* ●
Prohibits health care providers and employers from releasing medical information about a person seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either another state's laws that interfere with a person's abortion rights or a foreign (out of state) penal civil action.

**Reproductive health care**

**AB 2134** *(Weber, D-San Diego)* ■ ●
Establishes the California Abortion and Reproductive Equity Act, and the California Reproductive Health Equity Program within the Department of Health Care Access and Information. These are designed to ensure abortion and contraception services are affordable and accessible for all patients and to provide financial support for safety-net providers (including Medi-Cal providers) of these services. Requires a health care service plan that provides health coverage to employees of a religious employer that does not include coverage and benefits for both abortion and contraception to provide an enrollee or insured with written information that abortion and contraception benefits and services may be available at no cost through the program.

**Live birth registration**

**AB 2176** *(Wood, D-Santa Rosa)* ■ ●
Extends the time, from 10 days to 21 days, by which live births are required to be registered with the local registrar. This bill is intended to accommodate the traditional practices of certain cultures, such as 10-day ceremonies and naming ceremonies.

**Forensic examinations: domestic violence**

**AB 2185** *(Weber, D-San Diego)* ■ ●
Requires a health facility that performs domestic violence evidentiary examinations to maintain evidentiary exam reports in a way that facilitates their release as required or authorized by law, maintains their confidentiality, and prevents their destruction if the evidentiary exam program closes. The bill also gives patients undergoing a domestic violence evidentiary exam the right to have a social worker, victim advocate, or support person of their choosing present — if available — during the exam. The bill requires that costs associated with the evidentiary examination of a domestic violence victim be separate from costs of diagnosis and treatment of any injury sustained, and that costs for the evidentiary exam not be charged to the victim. Bills for evidentiary exams must be submitted to the California Office of Emergency Services (OES), which will establish a flat reimbursement rate. Cal OES is required to establish a 60-day reimbursement process.

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**Reproductive health care**

**AB 2223** *(Wicks, D-Oakland)* ● ●
Repeals existing law that requires health care providers to notify the coroner of unattended fetal deaths and deaths related to a known or suspected self-induced or criminal abortion.

**Health care decisions: decision-makers and surrogates**

**AB 2338** *(Gipson, D-Carson)* ● ●
Codifies existing state law about who may make health care decisions for adult patients who lack the capacity to make their own decisions. The bill also authorizes patients to verbally designate a surrogate decision-maker during a particular hospitalization by informing a designee of the health care facility caring for the patient, such as an admissions clerk.

**Incarcerated persons: health records**

**AB 2526** *(Cooper, D-Elk Grove)* ■ ●
Requires county agencies (such as county hospitals and county jails) caring for inmates to transfer mental health records when an inmate is transferred between the California Department of Corrections and Rehabilitation, the Department of State Hospitals, and county agencies. The records must be transferred within seven days.

**Gender-affirming health care**

**SB 107** *(Wiener, D-San Francisco)* ●
Prohibits health care providers from releasing medical information about a child who received gender-affirming care or gender-affirming mental health care in response to a civil or criminal action (including an out-of-state subpoena) based on another state's law that bans gender-affirming health care or gender-affirming mental health care for minors.

**Address confidentiality: public entity employees and contractors**

**SB 1131** *(Newman, D-Fullerton)* ●
Expands the public record address confidentiality (Safe at Home Program) for reproductive health care workers to include harassment as a basis to apply to the program. The bill also allows an applicant to submit a certified statement that they qualify for the program, instead of requiring the reproductive health care services facility to submit a statement.

**Confidentiality of Medical Information Act: school-linked services coordinators**

**SB 1184** *(Cortese, D-San Jose)* ●
Authorizes health care providers to disclose patient-identifiable information to a school-linked services coordinator with patient authorization. A school-linked services coordinator is defined as an individual located on a school campus or under contract by a county behavioral health provider agency who holds certain credentials, including a marriage and family therapist, educational psychologist, or professional clinical counselor.

**Health information**

**SB 1419** *(Becker, D-Menlo Park)* ■ ●
Clarifies that the law requiring health care professionals to discuss certain laboratory test results with patients prior to posting the test results online applies only to a new diagnosis of a malignancy, HIV positivity, hepatitis, or substance abuse. The bill also expands this law to imaging scans and reports. The bill restates existing law that parents may not have access to a minor's medical records related to medical services for which the minor is authorized by law to give consent unless the minor lacks the capacity to make health care decisions because of intellectual disability, physical impairment, or other reason and the parent is acting as the surrogate decisionmaker.

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Reproductive freedom

**State Constitutional Amendment 10** *(Atkins, D-San Diego)* ●
Proposes an amendment to the state Constitution to prohibit the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and to choose or refuse contraceptives. This proposal will appear on California's November ballot.

### PUBLIC REPORTING AND MEETINGS

Patient notice of open payments database

**AB 1278** *(Nazarian, D-Van Nuys)* ● ●
Requires a physician to provide multiple notices of the federal Open Payments database, where applicable manufacturers of drugs, devices, and biological or medical supplies annually report certain payments and other transfers of value to covered recipients like physicians. Notices must be provided to patients at the initial office visit; placed in each location where the licensee practices; and, beginning Jan. 1, 2024, posted on the website used for the physician's practice. If the physician is employed by a health care employer, the employer must comply with these posting requirements. These requirements do not apply to a physician working in a hospital emergency room.

Local government: open meetings

**AB 2647** *(Levine, D-Marin County)* ●
In compliance with the Ralph M. Brown Act, AB 2647 requires a local agency to make the disclosable writings distributed to the members of the governing board available for public inspection. In addition, each governing board agenda must disclose where the materials may be inspected, unless the materials are posted clearly on the local agency's website.

Political Reform Act of 1974: lobbying

**SB 459** *(Allen, D-Santa Monica)* ●
Requires lobbyists, lobbying firms, and lobbyist employers to identify each bill or administrative action they lobbied in their periodic reports to the California Fair Political Practices Commission and prohibits them from including legislative or administrative actions that the entity is only watching or monitoring, but has not attempted to influence. The bill also increases the frequency of reporting during the 60 days before the Legislature is scheduled to adjourn for the interim recess or final recess. In addition, it adds additional requirements on issue lobbying advertisements.

### RURAL

Federally qualified health centers and rural health clinics: visits

**SB 966** *(Limón, D-Santa Barbara)* ■ ●
Requires the state Department of Health Care Services to seek any necessary federal approvals and issue appropriate guidance to allow a federally qualified health center (FQHC) or rural health clinic (RHC) to bill, under a supervising licensed behavioral health practitioner, for an encounter between a FQHC or RHC patient and an associate clinical social worker or associate marriage and family therapist when certain requirements are met. This includes that the visit is billed under the supervising licensed behavioral health practitioner of the FQHC or RHC.

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### SEISMIC

Annual seismic compliance update

**AB 1882** *(R. Rivas, D-Salinas)* ● ■

Requires hospitals that have not yet met the 2030 seismic requirements to provide an annual status update on their seismic compliance to their local governments, labor unions, hospital board of directors, and certain state departments by Jan. 1, 2024. In addition, requires these hospitals to post a notice, to be provided by the Department of Health Care Access and Information by July 1, 2023, in the lobbies and waiting areas of hospital buildings that have not yet met the 2030 seismic requirements by Jan. 1, 2024. It also requires these hospitals to annually include information regarding the building's expected earthquake performance in emergency training, response, and recovery plans and capital outlay plans by July 1, 2023. CHA secured amendments that: removed a provision requiring annual attestations by hospital boards of directors that they are aware of the 2030 deadline; streamlined reporting requirements; and replaced erroneous descriptions of buildings that have not yet met the 2030 seismic requirements with more accurate descriptions of their structural integrity.

### SKILLED-NURSING AND LONG-TERM CARE FACILITIES

Long-Term Care Ombudsman: facility access

**AB 1855** *(Nazarian, D-Van Nuys)* ● ■

Prohibits a skilled-nursing facility or residential care facility from denying entry to a representative of the State Office of the Long-Term Care Ombudsman acting in their official capacity, except as specified. Authorizes a facility — during a state of emergency, health emergency, or local health emergency — to require a representative of the office entering the facility to adhere to infection control protocols for the duration of their visit that are no more stringent than those required for facility staff.

### TELEMEDICINE

Telehealth

**AB 32** *(Aguiar-Curry, D-Davis)* ■ ● ■ ●

Permits a health care provider, a federally qualified health center, or a rural health clinic to establish a new patient relationship using an audio-only synchronous interaction (for example, a telephone call) when 1) the visit is related to sensitive services (behavioral health, sexual and reproductive health, substance use disorder, gender-affirming care, and intimate partner violence) or 2) the patient requests an audio-only modality or attests they do not have access to video. The Department of Health Care Services (DHCS) may impose requirements in these circumstances, and the bill implements these changes only to the extent necessary federal approvals are obtained and federal financial participation is available. Authorizes DHCS, in making exceptions to the requirement that health care providers offer both audio and video, to take into consideration the availability of broadband access based on speed standards set by the Federal Communications Commission.

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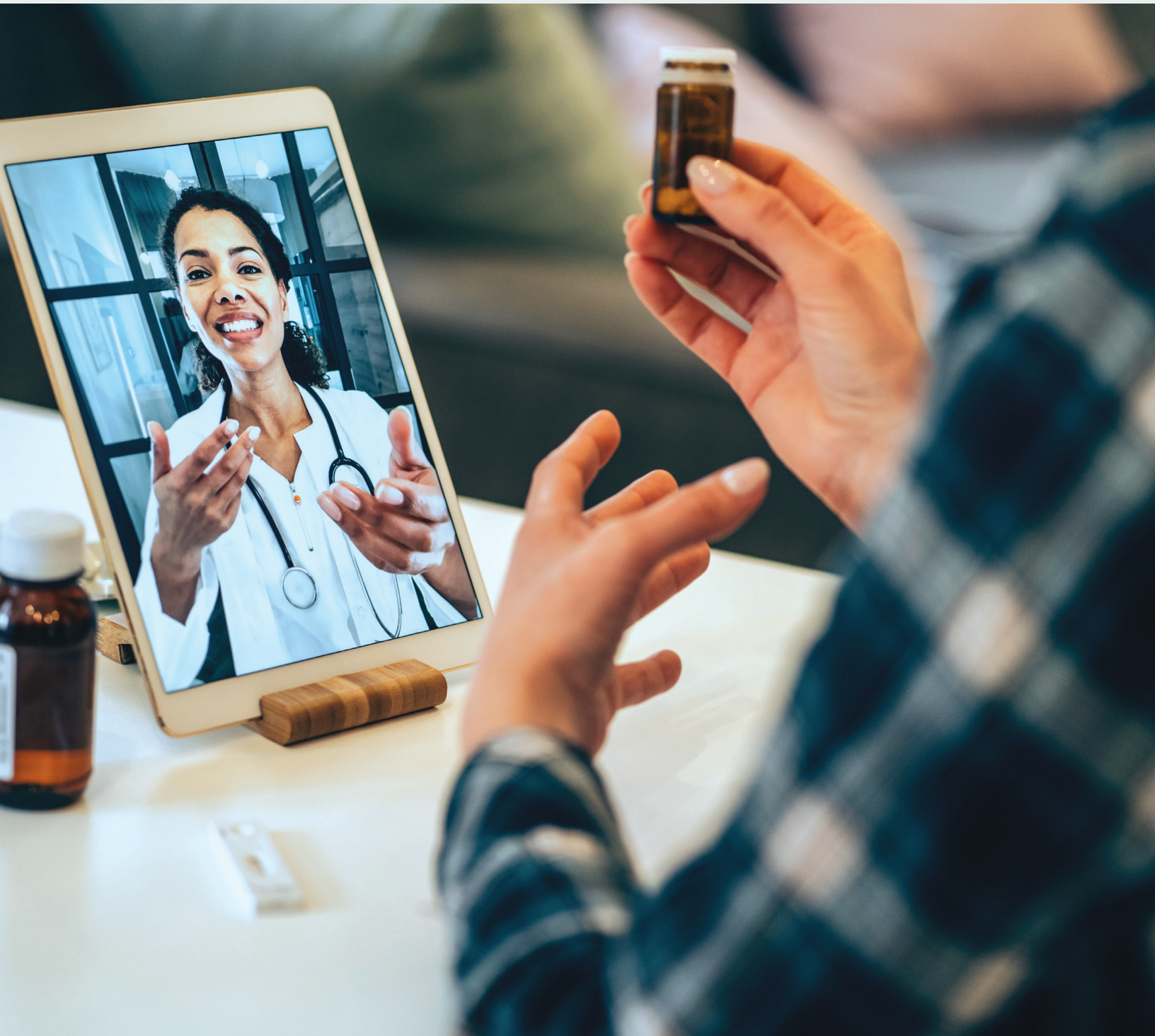

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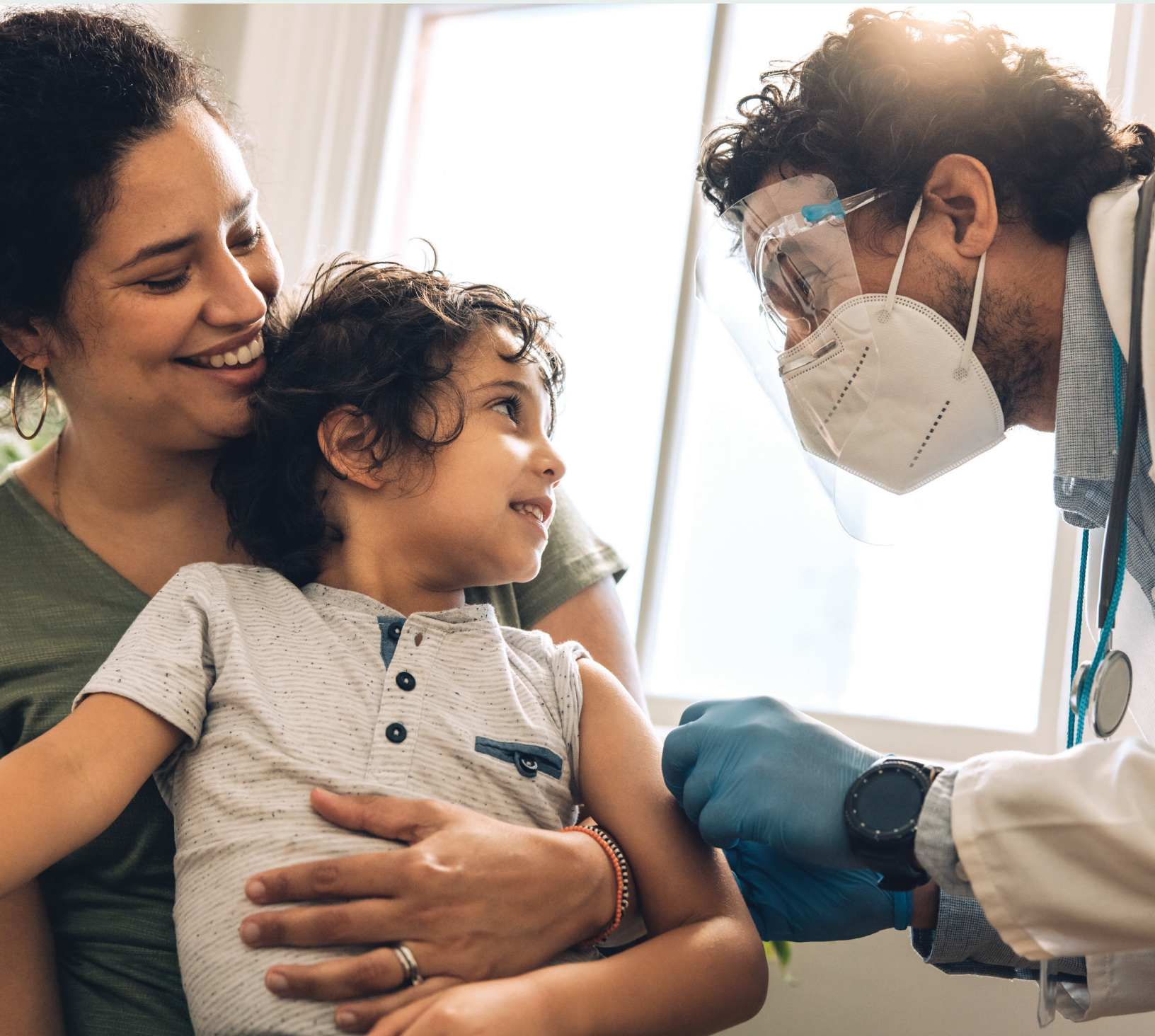

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### MEDICAL STAFF


California
Hospital
Association


Hospital Council
Northern & Central California


HOSPITAL
ASSOCIATION
of Southern California


HOSPITAL ASSOCIATION
of San Diego & Imperial Counties