



July 31, 2023

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 412
Sacramento, CA 95814

Subject: **AB 1359 (Schiavo) – OPPOSE UNLESS AMENDED**

Dear Senator Portantino:

For California’s hospitals, healthy patients and employees are paramount. Hospitals unequivocally support protecting their employees, and they simply could not fulfill their mission of care without healthy workers, which has taken on heightened importance during and after the pandemic. This includes ensuring that hospital employees have an appropriate level of paid sick leave to care for themselves, their families, and their partners.

Unfortunately, as currently drafted, Assembly Bill (AB) 1359 contains multiple confusing and contradictory provisions that make compliance impossible. Therefore, on behalf of more than 400 hospital and health system members, CHA must adopt an “Oppose Unless Amended” position on AB 1359.

Specifically, the bill creates the following challenges:

AB 1359 and the Prohibition on “Limits”

As drafted, AB 1359 prohibits a health facility from placing any limits on the use of accrued sick leave. While some protections on the use of sick leave may be appropriate, a total bar creates significant issues for employers. For example, what if an employee is using sick leave to work for another employer? Or what if an employee is using sick leave as a supplement for vacation? Neither of these uses are in alignment with the goals of sick leave, yet both are permissible under AB 1359.

AB 1359 and the Treatment of Part-Time and Per Diem Staff

Under existing law, there are clear guidelines on how sick leave must be accrued. Specifically, existing law permits an accrual rate of one hour of sick leave for every 30 hours worked. This provides clear guidance for the handling of non-traditional employment, like part-time employees or per diem employees.

Particularly in the case of per diem employees, who might only work once per year, this guidance was critical to ensure compliance with the law. AB 1359 is silent on accrual rates, leaving health care providers in the dark on how much sick leave to provide part-time or per diem employees.

AB 1359 and Punitive Enforcement

This bill includes uniquely punitive enforcement language. As the legislation creates new provisions in state Labor Code, the sick leave provided by AB 1359 is under the Private Attorneys General Act (PAGA). However, AB 1359 also has a separate private right of action for enforcement. **This means that the sick leave for health care workers falls under two separate private rights of action** — permitting an employer to be sued twice for the same purported violation. Noting the compliance issues listed above, expensive litigation is likely, and any claims will be twice as much, as hospitals and other health facilities will be subjected to enforcement actions under two private rights of action.

For these reasons, CHA respectfully opposes AB 1359, unless it is amended. We look forward to working with the author and sponsor to develop amendments to address these concerns.

Sincerely,



Rony Berdugo
Vice President, State Advocacy

cc: The Honorable Pilar Schiavo
The Honorable Members of the Senate Appropriations Committee
Robert Ingenito, Consultant, Senate Appropriations Committee
Cory Botts, Consultant, Senate Republican Caucus