



SPECIAL REPORT

NEW YEAR, NEW LAWS

California Healthcare Providers Subject
to New Requirements in 2024

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**McDermott
Will & Emery**

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INTRODUCTION

The California legislature has created a lot of holiday homework for California healthcare providers, passing more than 50 new laws regulating a wide range of healthcare providers and healthcare business operations. The reforms apply to many areas of the state's healthcare system, including:

1. Expanding access to substance abuse services
2. Establishing new policies and protections concerning reproductive health rights
3. Expanding access to gender-affirming care
4. Establishing new requirements for the privacy, interoperability and management of patient healthcare information
5. Prohibiting surprise billing by ambulance service providers
6. Increasing minimum wages for healthcare workers
7. Establishing new procedures related to the treatment and management of patients in skilled nursing and residential treatment facilities
8. Expanding consents to treatment for minors and patients in residential care facilities for the elderly

Many of these reforms become effective as we usher in the new year, and there are many updates healthcare providers and facilities should be aware of. Summaries of these new laws are below, organized by provider type, with hyperlinks to the legislative text.

MULTIPLE PROVIDER TYPES INCLUDING DIGITAL HEALTH



SB 525: Establishes different minimum wage schedules for healthcare workers, depending on the type of healthcare provider and employer. For all provider and employer types, the rates begin increasing in June 2024 by up to \$25 per hour.



AB 1194: Clarifies that an exemption from compliance with the California Consumer Privacy Act does not apply to businesses that collect a consumer's personal information related to accessing, procuring or searching for services regarding contraception, pregnancy care and perinatal care, including abortion. Provides an exception for specified business purposes. Effective January 1, 2024.



AB 1697: Allows electronic signatures to authorize the release of medical information or genetic test results. Requires such authorization to include an expiration date or event limiting it to one year or less, with certain exceptions. Complements **AB 254** to amend the California Confidentiality of Medical Information Act (CMIA) definition of "medical information" to include "reproductive or sexual health application information" collected by a "reproductive or sexual health digital service." Effective January 1, 2024.



SB 487: Expands prohibition on enforcement of other states' laws allowing for civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions to abortion providers. Prohibits healthcare service plans and insurers from ending a contract issued, amended or renewed on or after January 1, 2024, or otherwise

penalizing a healthcare provider based solely on legal or disciplinary action in another state related to care that would be legal in California. It also allows the Department of Health Care Services (DHCS) to elect not to suspend a Medi-Cal provider who was subject to disciplinary action in another state for conduct not deemed unprofessional in California.



AB 571: Prohibits insurers from refusing to issue or renew professional liability insurance or imposing a surcharge against healthcare providers based solely on offering or performing abortion, contraception or gender-affirming care. Effective January 1, 2024.



AB 1707: Prohibits healthcare professional licensing boards and health facilities from disciplining or denying staff privileges to licensees based on adverse actions by another state related to reproductive or gender-affirming care. Prohibits the denial or revocation of a clinic or health facility license based on such actions by another state. Exempts from the above-specified provisions a civil judgment, criminal conviction or disciplinary action imposed by another state based upon conduct in another state that would subject an applicant, licensee or healthcare practitioner to a similar claim, charge or action under California law. Effective January 1, 2024.



SB 345: Prohibits state or local government cooperation with out-of-state proceedings related to reproductive or gender-affirming care. Provides that California law governs in any action in the state against a provider of such care, including via telehealth, if the provider was located in California or another state where the care was legal. Prohibits a person or business, other than healthcare providers or plans, from collecting, sharing or selling certain family planning center location data, among other provisions. Interference with the right to

reproductive healthcare services, gender-affirming healthcare services or gender-affirming mental healthcare services, as those terms are defined, is against the public policy of California. Declares as a violation of public policy a public act or record of a foreign jurisdiction that, among other things, authorizes a person to bring a civil action against a person, provider or other entity in California for, among other acts, seeking or providing reproductive healthcare services, gender-affirming healthcare services, or gender-affirmative mental healthcare services. Effective January 1, 2024.



AB 352: Requires certain businesses that electronically store or maintain medical information (including on behalf of healthcare providers) to, by July 1, 2024, enable privacy, data segmentation, security and interoperability features to protect information related to abortion, contraception and gender-affirming care. Prohibits healthcare providers, service plans, contractors or employers from cooperating with an out-of-state investigation by providing medical information that could identify a person seeking or obtaining an abortion or abortion-related services. Prohibits healthcare providers from sharing medical information that would identify an individual and is related to abortion care via their electronic health record system or through a health information exchange (subject to certain exceptions). Providers could be subject to liability for noncompliance beginning January 31, 2026. Excludes health information related to abortions and abortion-related care from information sharing requirements under the California Health and Human Services Data Exchange Framework. Read more about AB 352 in our [On the Subject](#).



AB 254: Revises the definition of “medical information” under the CMIA to include reproductive or sexual health application information, which the bill defines to mean information about a consumer’s reproductive or sexual health collected by a reproductive or sexual health digital service. Makes a business that offers a reproductive or sexual health digital service to a consumer for the purpose of allowing the individual to manage the individual’s information, or for the diagnosis, treatment or management of a medical condition of the individual, a provider of healthcare subject to the requirements of the CMIA. These businesses would also be liable for penalties for the improper use of disclosure of medical information under CMIA. Effective January 1, 2024. Read more about AB 254 in our [On the Subject](#).



AB 1720: Specifies the settings in which an ultrasound or similar medical imaging device procedure may be offered. Imposes a civil penalty for the violation of this provision in the amount of \$2,500 for a first offense and \$5,000 for each subsequent offense, defined as each ultrasound conducted outside of the specified settings. Authorizes the attorney general, a district attorney, a city attorney or a county counsel to bring an action to impose the civil penalty. Effective January 1, 2024.



AB 1241: Requires that Medi-Cal providers of synchronous audio or video telehealth services maintain and follow protocols to either offer services in person or facilitate in-person care. Clarifies that providers are not required to schedule an appointment with a different provider on behalf of a patient. Effective on a date to be set by DHCS, but no sooner than January 1, 2024.



AB 1029: Clarifies that a “health care decision” does not include consent by a patient’s agent, conservator or surrogate to convulsive treatment, psychosurgery, sterilization or abortion. Confirms that a voluntary standalone psychiatric advance directive, as defined, may still be executed. Clarifies in the statutory advance healthcare directive form that the individual’s agent may not consent to a mental health facility or consent to convulsive treatment, psychosurgery, sterilization or abortion for the individual. Effective January 1, 2024.



AB 816: Allows minors 16 and older to consent to replacement narcotic abuse treatment that uses buprenorphine, also known as Suboxone, at a physician's office, clinic or health facility by a licensed physician or healthcare provider. Allows minors 16 and older to consent to receive any other opioid use disorder medications as a replacement therapy from a licensed narcotic treatment program. Effective January 1, 2024.



AB 1557: Deletes the provision making the authorization to electronically enter a prescription inapplicable to controlled substances. Authorizes a pharmacist located and licensed in the state to, on behalf of a licensed healthcare facility, from a location outside of the facility, verify medication chart orders for appropriateness before administration consistent with federal requirements, as established in the healthcare facility’s policies and procedures. Requires a healthcare facility to maintain a record of a pharmacist’s verification of a medication chart order. Effective January 1, 2024.

SB 779: Repeals and recasts Department of Health Care Access and Information reporting requirements, including, but not limited to, extending their application to intermittent clinics operated by licensed clinics.

Establishes specific reporting requirements for specialty clinics, as defined by law. Requires an organization that operates, conducts, owns or maintains a primary care clinic or intermittent clinic, and its officers, to file specified reports for every primary care clinic and every intermittent clinic that it operates, conducts, owns or maintains, on or before February 15 each year, including, but not limited to, a report of all mergers and acquisitions, a detailed labor report, and a report of quality and equity measures. Requires the department to adopt regulations necessary to implement these reporting requirements and to require the first annual reports to be submitted on or before February 15, 2028, using information relating to the calendar year beginning January 1, 2027.



AB 665: Removes the requirement restricting young people ages 12 and older from consenting to Medi-Cal-covered mental health counseling. The youth must still be mature enough to participate intelligently in the outpatient services or counseling services. Effective July 1, 2024.

AB 1007: Requires the Division of Occupational Safety and Health to submit to the Occupational Safety and Health Standards Board a proposed regulation requiring a health facility to evacuate or remove plume to the extent technologically feasible through the use of a plume scavenging system in all settings that employ techniques that involve the creation of plume. Compliance with general room ventilation standards or the use of surgical masks does not satisfy the requirements for protection from surgical plumes under these provisions. Use of respirators does not satisfy the requirements for protection from surgical plumes under these provisions, except as specified in the law. Requires the manufacturer of a plume scavenging system to provide evidence that the system meets specified minimum requirements when installed,

operated and maintained in accordance with the manufacturer's instructions. Requires the board to consider for adoption a proposed regulation by June 1, 2027.

HOSPITALS



AB 1392: Requires hospitals with operating expenses of \$50 million or more and hospitals with operating expenses of \$25 million or more that are part of a hospital system to submit annual plans for increasing procurement from minority, women, LGBT and disabled veteran businesses. Effective July 1, 2025.



AB 242: Removes the January 1, 2024, sunset date of an exception to the state ban on corporate practice of medicine that allows critical access hospitals to employ physicians and charge for their services.

PHARMACIES

SB 786: Prohibits California pharmacy benefit managers (PBMs) from discriminating against 340B covered entities and the pharmacies contracting with such covered entities. Effective as of October 7, 2023.



AB 948: Repeals existing law requiring a healthcare service plan contract or health insurance policy for a non-grandfathered individual or small group product that maintains a drug formulary grouped into tiers (including a fourth tier) to define each tier of the drug formulary, as specified. Deletes drugs that are biologics from the definition of Tier 4. Requires a healthcare service plan or a health insurer, if there is a generic equivalent to a brand-name drug, to ensure that an enrollee or insured is subject to the lowest cost sharing that would be applied, whether

or not both the generic equivalent and the brand-name drug are on the formulary. Effective January 1, 2024.



AB 853: Requires certain parties who are acquiring any voting securities or assets of a retail pharmacy or grocery firm to notify the attorney general 180 days before the effective date to allow for review of the transaction. Applies to parties who are required to file notice under the federal Hart-Scott-Rodino Act or who are acquiring more than 20 retail pharmacy or grocery firms. Authorizes the attorney general to adopt regulations to effectuate the bill's provisions. Violation is subject to injunctive relief and other equitable remedies and entitles the attorney general to recover attorneys' fees and costs and impose civil penalties of up to \$20,000 for each day of noncompliance. Effective January 1, 2024.

SB 421: Removes the sunset date of requirements for health plans and insurers to limit copays and coinsurance for a 30-day supply of oral anticancer prescription drugs to \$250. Applies to any health plan issued, amended or renewed on or after January 1, 2015.



SB 621: Establishes that a healthcare service plan, insurer or utilization review organization is not prohibited from requiring an enrollee or insured to try a biosimilar before providing coverage for the equivalent branded prescription drug. Provides that the requirement to try biosimilar, generic and interchangeable drugs does not prohibit or supersede a step therapy exception request. Effective January 1, 2024.



AB 1286: Requires community pharmacies to report all medication errors that vary from a prescription drug order and are dispensed in a manner not authorized by the prescriber. Authorizes a pharmacist-in-charge to make staffing

decisions to ensure sufficient personnel are present to prevent conditions that may interfere with a pharmacist’s ability to practice competently and safely. Expands the list of unprofessional conduct subject to action by the state Board of Pharmacy. Effective January 1, 2024.

AMBULANCE, EMS



AB 716: Ends surprise billing for out-of-network ambulance services. Requires an insurance policy to require an insured who

receives ambulance services from a noncontracting provider to pay no more than the same cost-sharing amount that the insured would pay for the same covered services received from a contracting provider. Ambulance providers are also prohibited from charging uninsured or self-pay patients more than the established payment by Medi-Cal or Medicare fee-for-service amount, whichever is greater. Effective against any insurance policies issued, renewed or amended on or after January 1, 2024.



AB 40: Requires local emergency medical services (EMS) agencies to establish an ambulance patient offload time (APOT)

standard of no more than 30 minutes 90% of the time, effective as of July 1, 2024. Also requires general acute care hospitals with an emergency department (ED) to develop, in consultation with their exclusive employee representatives, if any, an APOT reduction protocol. Beginning December 31, 2024, when a general acute care hospital with an ED exceeds the local EMS standard for the preceding month, the hospital will be required to participate in, at minimum, biweekly calls with its local EMS agency and EMS providers.



AB 1376: Provides that a private provider of ambulance services, and employees of that provider, when operating in

accordance with the standards and protocols of local emergency medical services agencies, shall not be criminally or civilly liable for the continued detainment of a person when that detainment is requested by a peace officer, facility staff or other professionals authorized to detain persons in circumstances involving the transport and continued containment of a person who requires mental health evaluation and treatment. Requires a private provider of ambulance services subject to these provisions to provide care according to the policies and procedures established by the local emergency medical services agency, as specified, and the policies of the California Emergency Medical Services Authority. Prohibits a private provider of ambulance services that provides transportation to a designated facility, as defined, from requiring a person who is voluntarily agreeing to transport to be placed on an involuntary hold as a precondition to that transport. Effective January 1, 2024.

AB 767: Extends the sunset date of provisions allowing local EMS agencies to develop community paramedicine programs to January 1, 2031. Expands allowable community paramedicine services to include short-term, post-discharge follow-up for persons recently discharged from a hospital due to a serious health condition.

INDIVIDUAL PRACTITIONERS



AB 1369: Authorizes a physician or surgeon licensed in another state to deliver healthcare via telehealth to an eligible

patient who has an immediately life-threatening disease or condition. Effective January 1, 2024.



AB 904: Requires healthcare service plans and health insurers to develop a maternal and infant health equity program to address racial health disparities through the use of doulas, on or before January 1, 2025.

AB 1341: Allows pharmacists to continue providing COVID-19 oral therapeutics to patients following a positive test for SARS-CoV-2 until January 1, 2025. Adds a July 1, 2028, sunset date to provisions allowing individuals to analyze COVID-19 tests if they meet federal requirements for high-complexity testing. Authorizes individuals acting under the direction of a physician or surgeon to administer a narcotic controlled substance in the treatment of a person with substance use disorder for addiction to a controlled substance.



SB 385: Revises the training requirements for a physician assistant to instead require a physician assistant to achieve clinical competency by successfully completing requisite training in performing an abortion by aspiration techniques. Removes the requirement that a physician assistant follow certain protocols to receive authority from the physician assistant's supervising physician and surgeon to perform an abortion by aspiration techniques. Authorizes a physician assistant who has completed the training and achieved clinical competency to perform abortions by aspiration techniques without the personal presence of a supervising physician and surgeon. Requires a physician assistant to practice abortion by aspiration techniques consistent with applicable standards of care, within the scope of their clinical and professional education and training, and pursuant to their practice agreement. Provides that specified persons authorized to perform abortion by aspiration techniques shall not be punished, held liable for damages in a civil action, or denied any right or privilege for any action relating to

the evaluation of clinical competency of a physician assistant. Effective January 1, 2024.

SB 805: Expands the criteria for a qualified autism service professional under existing law to include a psychological associate, an associate marriage and family therapist, an associate clinical social worker or an associate professional clinical counselor. Requires those positions to meet the criteria for a behavioral health professional. Effective as of August 10, 2023.



SB 815: Makes changes to the fees for initial licensure and renewal of licensure for physician's and surgeon's licenses. Makes changes to the licensure process and training requirements for physicians and surgeons. Makes changes to the enforcement process for disciplinary actions against licensees, including, among other things, allowing affected patients to make impact statements to the Medical Board of California. Effective January 1, 2024.



AB 1395: Establishes the Licensed Physicians and Dentists from Mexico Pilot Program requiring the Medical Board of California to issue a three-year nonrenewable license to an applicant who has not provided an individual taxpayer identification number or social security number if the applicant meets specified conditions. Prohibits the applicant from engaging in the practice of medicine until the board determines that applicable conditions have been met. Effective January 1, 2024.

LABORATORIES



SB 496: Requires health insurance coverage and Medi-Cal coverage of biomarker testing, including whole genome sequencing, for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an

enrollee's or insured's disease or condition to guide treatment decisions. Effective July 1, 2024.



AB 425: Adds pharmacogenomic testing as a covered benefit under Medi-Cal. The bill defines pharmacogenomic testing as laboratory genetic testing that includes, but is not limited to, a panel test, to identify how a person's genetics may impact the efficacy, toxicity and safety of medications. Implementation is conditioned on receipt of any necessary federal approvals and the availability of federal financial participation. Effective July 1, 2024.



AB 317: Requires a health plan and certain disability insurers that offer coverage for a service that is within the scope of practice of a pharmacist to reimburse the cost of services performed by a pharmacist at an in-network pharmacy or by a pharmacist at an out-of-network pharmacy if the health plan or insurer has an out-of-network pharmacy benefit. Effective January 1, 2024.

SKILLED NURSING FACILITIES, INTERMEDIATE CARE FACILITIES, RESIDENTIAL CARE FACILITIES



AB 48: Establishes new rights and procedures for obtaining informed consent from skilled nursing facility residents before administering treatments or procedures involving psychotherapeutic drugs, except in an emergency. As part of this new process, before treatment is initiated, skilled nursing facilities must verify that a consent form has been completed to ensure specified information has been shared with the patient prior to providing consent. The California Department of Public Health (CDPH) is charged with developing the consent form. CDPH has until December 31, 2024,

to develop and disseminate the standardized consent form, and facilities are not required to comply until then.



AB 979: Revises provisions concerning the requirement that skilled nursing facilities, intermediate care facilities and residential care facilities for the elderly allow residents or residents' families to form family councils where family members, friends or representatives can confer in private without facility staff being present, including allowing virtual meetings. Requires that a designated staff person be approved by the family council to provide adequate posting and meeting space for the family council and respond to written requests, concerns or recommendations. The facility must respond in writing regarding any action or inaction concerning written requests within 14 calendar days. Authorizes facility staff, but not visitors, to attend meetings only at the invitation of the family council. Requires the facility to inform family members, representatives and friends identified in certain materials of the existence of the family council and to provide the name and contact information of the family council representative prior to or within five business days after the resident's admission. Effective January 1, 2024.



AB 1309: Requires long-term care facilities to provide, within 48 hours of the written notice of a facility-initiated transfer or discharge, a copy of the resident's discharge needs and discharge plan. Requires the facility to provide a copy of the resident's discharge summary prior to the proposed transfer or discharge date. Requires the facility to provide these documents at no cost to the resident. If the resident requests a transfer or discharge appeal hearing, both the resident and the facility must provide all documents and records to be used by the party at the hearing. Effective January 1, 2024.



AB 839: Adds residential care facilities for the elderly to the definition of a “health facility” eligible for financing and funding programs of the California Health Facilities Financing Authority. Effective January 1, 2024.



AB 1417: Establishes that, if abuse occurring in a long-term facility was allegedly caused by another resident of the facility with dementia and there was no serious bodily injury, the reporter is required to submit a written report within 24 hours to the long-term care ombudsperson

and the local law enforcement agency. In all other instances, immediately or as soon as practically possible, but no longer than two hours, the reporter is required to submit a verbal report to the local law enforcement agency, and to submit a written report within 24 hours to the aforementioned recipients. The time limit for reporting begins when the mandated reporter observes, obtains knowledge of, or suspects the abuse or neglect. Effective January 1, 2024.

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