

AMENDED IN ASSEMBLY APRIL 3, 2025
AMENDED IN ASSEMBLY FEBRUARY 18, 2025
CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 290

Introduced by Assembly Member Bauer-Kahan

January 22, 2025

An act to ~~amend Sections 1317.3, 1317.4, and 1317.6 of the Health and Safety Code, relating to health care.~~ *add Section 10095.8 to the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 290, as amended, Bauer-Kahan. ~~Emergency services and care.~~ *California FAIR Plan Association: automatic payments.*

Existing law establishes the California FAIR Plan Association, a joint reinsurance association in which all insurers licensed to write basic property insurance participate to administer a program for the equitable apportionment of basic property insurance for persons who are unable to obtain that coverage through normal channels. Existing law authorizes cancellation of an insurance policy for nonpayment of premium, and requires an insurer to notify a policyholder at least 10 business days before the policy will be canceled for nonpayment.

This bill would require the California FAIR Plan Association to create an automatic payment system and accept automatic payments for premiums from policyholders. The bill would prohibit an automatic payment amount from being different than if the policyholder made a payment through another method. The bill would prohibit cancellation or nonrenewal of a FAIR Plan policy solely because the policyholder is not enrolled in automatic payments or because the policyholder failed

to confirm a payment when making a one-time payment on the association's internet website. The bill would provide for a 15-day grace period for late premium payments.

~~Existing law requires the State Department of Public Health (department) to license and regulate each health facility, defined to mean a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, and includes, among others, a general acute care hospital and an acute psychiatric hospital.~~

~~Existing law, the Unruh Civil Rights Act (Unruh Act), specifies that all persons within the jurisdiction of the state are free and equal, and no matter their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind.~~

~~Existing law requires a health facility that maintains and operates an emergency department to provide emergency services and care, as defined, to any person requesting the services or care for any condition in which the person is in danger of loss of life, or serious injury or illness, as specified. Existing law prohibits the provision of emergency services and care from being based on or affected by, among other characteristics, a person's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, or a characteristic identified in the Unruh Act, as specified. Existing law requires a hospital to adopt a policy prohibiting discrimination in the provision of emergency services and care, and to prohibit physicians and surgeons who serve on an "on-call" basis to the hospital's emergency room from refusing to respond to a call, based on the characteristics described above. If a hospital fails to timely adopt the required policies and protocols, in addition to denial or revocation of any of its licenses, existing law subjects the hospital to a fine not to exceed \$1,000 for each day after 60 days' written notice from the department that the hospital's policies or protocols are inadequate, as specified.~~

~~This bill would increase the fine for a hospital's failure to adopt the policies and protocols required for the provision of emergency services and care to \$1,000,000 per day.~~

~~Existing law prohibits a hospital, governmental agency, or person from retaliating against, penalizing, or taking other specified actions against a physician or other personnel for reporting in good faith a~~

~~violation of the requirements governing the provision of emergency services and care, or for refusing to transfer a patient when the physician determines that the transfer or delay caused by the transfer will create a medical hazard to the person, as specified. Existing law subjects a person who violates either of these prohibitions to a civil penalty of no more than \$10,000 per violation.~~

~~This bill would increase the maximum amount of that civil penalty to \$1,000,000 per violation.~~

~~Under existing law, a hospital found by the department to have committed or been responsible for a violation of the requirements governing the provision of emergency services and care is subject to a civil penalty in an amount not to exceed \$25,000 for each hospital violation, except as specified. A physician and surgeon found by the Medical Board of California to have committed or been responsible for a violation of those requirements is subject to a civil penalty by the board not to exceed \$5,000. Existing law establishes a cumulative maximum limit of \$30,000 for civil penalties against hospitals assessed under these provisions and under a specified federal provision governing emergency examination and treatment for emergency medical conditions and women in labor. Existing law requires the department, when determining the amount of a penalty for a hospital violation, to take into account factors including, but not limited to, civil fines that have been imposed for violating the federal provisions. Existing law requires the department to return or credit state penalty amounts to a hospital to ensure that the cumulative maximum limit is not exceeded.~~

~~This bill would increase the maximum amount of a civil penalty against a hospital or physician and surgeon that violated the above-referenced requirements to \$1,000,000, respectively. The bill would delete the provisions requiring the cumulative maximum penalty limit and the requirement that the department consider the above-described civil fines imposed for violating federal provisions.~~

~~Existing law authorizes a person who suffers personal harm and any medical facility that suffers financial loss resulting from a violation of the requirements relating to the provision of emergency services and care to recover damages, attorney's fees, and other appropriate relief in a civil action against the transferring or receiving hospital, as specified. Existing law also authorizes a person potentially harmed by the emergency services and care provisions or implementing regulations, or the local district attorney or the Attorney General, to bring a civil action to enjoin the violation, as prescribed.~~

~~This bill additionally would authorize the local district attorney or the Attorney General to bring a civil action against an entity that violates an injunction issued according to the above provisions, as specified. The bill would require a court to award a civil penalty of up to \$1,000,000, attorney's fees, and litigation costs to the prevailing party.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10095.8 is added to the Insurance Code,
2 to read:

3 10095.8. (a) The association shall create an automatic
4 payment system and accept automatic payments for premiums from
5 policyholders.

6 (b) An automatic payment amount charged to a policyholder
7 shall not be different than if the policyholder made a payment
8 through another method.

9 (c) A policy shall not be canceled or nonrenewed solely because
10 the policyholder is not enrolled in automatic payments or because
11 the policyholder failed to confirm a payment when making a
12 one-time payment on the association's internet website.

13 (d) If a policyholder fails to timely pay their premium, the
14 policyholder shall have a 15-day grace period to pay the
15 outstanding premium.

16 SECTION 1. ~~Section 1317.3 of the Health and Safety Code is~~
17 ~~amended to read:~~

18 1317.3. (a) ~~As a condition of licensure, each hospital shall~~
19 ~~adopt, in consultation with the medical staff, policies and transfer~~
20 ~~protocols consistent with this article and its implementing~~
21 ~~regulations.~~

22 (b) ~~As a condition of licensure, each hospital shall adopt a policy~~
23 ~~prohibiting discrimination in the provision of emergency services~~
24 ~~and care based on ethnicity, citizenship, age, preexisting medical~~
25 ~~condition, insurance status, economic status, ability to pay for~~
26 ~~medical services, or any characteristic listed or defined in~~
27 ~~subdivision (b) or (c) of Section 51 of the Civil Code, except to~~
28 ~~the extent that a circumstance such as age, sex, preexisting medical~~
29 ~~condition, or physical or mental disability is medically significant~~
30 ~~to the provision of appropriate medical care to the patient. Transfer~~

1 by a hospital of a patient who requires evaluation for involuntary
2 psychiatric treatment, as determined by the receiving hospital or
3 other receiving health facility, based upon the decision of a
4 professional person duly authorized by law to make that decision,
5 shall not constitute discrimination for the purposes of this section,
6 if the transferring hospital has not been designated as an evaluation
7 facility by a county pursuant to Section 5150 of the Welfare and
8 Institutions Code, and if the transfer is in compliance with Section
9 1317.2.

10 (e) As a condition of licensure, each hospital shall require that
11 physicians and surgeons who serve on an “on-call” basis to the
12 hospital’s emergency room cannot refuse to respond to a call on
13 the basis of the patient’s ethnicity, citizenship, age, preexisting
14 medical condition, insurance status, economic status, ability to
15 pay for medical services, or any characteristic listed or defined in
16 subdivision (b) or (e) of Section 51 of the Civil Code, except to
17 the extent that a circumstance such as age, sex, preexisting medical
18 condition, or physical or mental disability is medically significant
19 to the provision of appropriate medical care to the patient. If a
20 contract between a physician and surgeon and hospital for the
21 provision of emergency room coverage presently prevents the
22 hospital from imposing those conditions, the conditions shall be
23 included in the contract as soon as is legally permissible. This
24 section does not require a physician to serve on an “on-call” basis.

25 (d) As a condition of licensure, all hospitals shall inform all
26 persons presented to an emergency room or their representatives
27 if any are present and the person is unable to understand verbal or
28 written communication, both orally and in writing, of the reasons
29 for the transfer or refusal to provide emergency services and care
30 and of the person’s right to emergency services and care prior to
31 transfer or discharge without regard to ability to pay. This
32 subdivision does not require notification of the reasons for the
33 transfer in advance of the transfer where a person is unaccompanied
34 and the hospital has made a reasonable effort to locate a
35 representative, and because of the person’s physical or mental
36 condition, notification is not possible. All hospitals shall
37 prominently post a sign in their emergency rooms informing the
38 public of their rights. Both the posted sign and written
39 communication concerning the transfer or refusal to provide
40 emergency services and care shall give the address of the

1 department as the governmental agency to contact in the event the
2 person wishes to complain about the hospital's conduct.

3 (e) ~~If a hospital does not timely adopt the policies and protocols~~
4 ~~required in this article, the hospital, in addition to denial or~~
5 ~~revocation of any of its licenses, shall be subject to a fine not to~~
6 ~~exceed one million dollars (\$1,000,000) each day after expiration~~
7 ~~of 60 days' written notice from the state department that the~~
8 ~~hospital's policies or protocols required by this article are~~
9 ~~inadequate unless the delay is excused by the state department~~
10 ~~upon a showing of good and sufficient cause by the hospital. The~~
11 ~~notice shall include a detailed statement of the state department's~~
12 ~~reasons for its determination and suggested changes to the~~
13 ~~hospital's protocols that would be acceptable to the state~~
14 ~~department.~~

15 SEC. 2. ~~Section 1317.4 of the Health and Safety Code is~~
16 ~~amended to read:~~

17 1317.4. (a) ~~All hospitals shall maintain records of each transfer~~
18 ~~made or received, including the "Transfer Summary" described~~
19 ~~in subdivision (f) of Section 1317.2, for a period of three years.~~

20 (b) ~~All hospitals making or receiving transfers shall file with~~
21 ~~the state department annual reports on forms prescribed by the~~
22 ~~department, which shall describe the aggregate number of transfers~~
23 ~~made and received according to the person's insurance status and~~
24 ~~reasons for transfers.~~

25 (c) ~~The receiving hospital, and all physicians, other licensed~~
26 ~~emergency room health personnel, and certified prehospital~~
27 ~~emergency personnel at the receiving hospital who know of~~
28 ~~apparent violations of this article or its implementing regulations~~
29 ~~shall, and the corresponding personnel at the transferring hospital~~
30 ~~and the transferring hospital may, report the apparent violations~~
31 ~~to the state department on a form prescribed by the state department~~
32 ~~within one week following its occurrence. The state department~~
33 ~~shall promptly send a copy of the form to the hospital administrator~~
34 ~~and appropriate medical staff committee of the transferring hospital~~
35 ~~and the local emergency medical services agency, unless the state~~
36 ~~department concludes that the complaint does not allege facts~~
37 ~~requiring further investigation, or is otherwise unmeritorious, or~~
38 ~~the state department concludes, based upon the circumstances of~~
39 ~~the case, that its investigation of the allegations would be impeded~~
40 ~~by disclosure of the form. When two or more persons required to~~

1 report jointly have knowledge of an apparent violation, a single
2 report may be made by a member of the team selected by mutual
3 agreement in accordance with hospital protocols. Any individual,
4 required to report by this section, who disagrees with the proposed
5 joint report has a right and duty to separately report.

6 A failure to report under this subdivision shall not constitute a
7 violation within the meaning of Section 1290 or 1317.6.

8 (d) A hospital, governmental agency, or person shall not retaliate
9 against, penalize, institute a civil action against, or recover
10 monetary relief from, or otherwise cause any injury to a physician
11 or other personnel for reporting in good faith an apparent violation
12 of this article or its implementing regulations to the state
13 department, hospital, medical staff, or any other interested party
14 or governmental agency.

15 (e) A hospital, governmental agency, or person shall not retaliate
16 against, penalize, institute a civil action against, or recover
17 monetary relief from, or otherwise cause any injury to a physician
18 who refused to transfer a patient when the physician determines,
19 within reasonable medical probability, that the transfer or delay
20 caused by the transfer will create a medical hazard to the person.

21 (f) Any person who violates subdivision (d) or (e) is subject to
22 a civil penalty of no more than one million dollars (\$1,000,000)
23 per violation. The remedy specified in this section shall be in
24 addition to any other remedy provided by law.

25 (g) The state department shall on an annual basis publish and
26 provide to the Legislature a statistical summary by county on the
27 extent of economic transfers of emergency patients, the frequency
28 of medically hazardous transfers, the insurance status of the patient
29 populations being transferred and all violations finally determined
30 by the state department describing the nature of the violations,
31 hospitals involved, and the action taken by the state department
32 in response. These summaries shall not reveal the identity of
33 individual persons transferred.

34 (h) Proceedings by the state department to impose a fine under
35 Section 1317.3 or 1317.6, and proceedings by the board to impose
36 a fine under Section 1317.6, shall be conducted as follows:

37 (1) If a hospital desires to contest a proposed fine, the hospital
38 shall within 15 business days after service of the notice of proposed
39 fine notify the director in writing of its intention to contest the
40 proposed fine. If requested by the hospital, the director or the

1 director's designee, shall hold, within 30 business days, an informal
2 conference, at the conclusion of which the director or the director's
3 designee may affirm, modify, or dismiss the proposed fine. If the
4 director or the director's designee affirms, modifies, or dismisses
5 the proposed fine, they shall state with particularity, in writing,
6 the reasons for that action, and shall immediately transmit a copy
7 thereof to the hospital. If the hospital desires to contest a
8 determination made after the informal conference, the hospital
9 shall inform the director in writing within 15 business days after
10 it receives the decision by the director or director's designee. The
11 hospital shall not be required to request an informal conference to
12 contest a proposed fine, as specified in this section. If the hospital
13 fails to notify the director in writing that it intends to protest the
14 proposed fine within the times specified in this subdivision, the
15 proposed fine shall be deemed a final order of the state department
16 and shall not be subject to further administrative review.

17 (2) If a hospital notifies the director that it intends to contest a
18 proposed fine, the director shall immediately notify the Attorney
19 General. Upon notification, the Attorney General shall promptly
20 take all appropriate action to enforce the proposed fine in a court
21 of competent jurisdiction for the county in which the hospital is
22 located.

23 (3) A judicial action to enforce a proposed fine shall be filed
24 by the Attorney General after a hospital notifies the director of its
25 intent to contest the proposed fine. If a judicial proceeding is
26 prosecuted under the provisions of this section, the state department
27 shall have the burden of establishing by a preponderance of the
28 evidence that the alleged facts supporting the proposed fine
29 occurred, that the alleged facts constituted a violation for which a
30 fine may be assessed under Section 1317.3, 1317.4, or 1317.6, and
31 the proposed fine is appropriate. The state department shall also
32 have the burden of establishing by a preponderance of the evidence
33 that the assessment of the proposed fine should be upheld. If a
34 hospital timely notifies the state department of its decision to
35 contest a proposed fine, the fine shall not be due and payable unless
36 and until the judicial proceeding is terminated in favor of the state
37 department.

38 (4) Action brought under the provisions of this section shall be
39 set for trial at the earliest possible date and shall take precedence
40 on the court calendar over all other cases except matters to which

1 equal or superior precedence is specifically granted by law. Times
2 for responsive pleading and for hearing any such proceeding shall
3 be set by the judge of the court with the object of securing a
4 decision as to subject matters at the earliest possible time.

5 ~~(5) If the proposed fine is dismissed or reduced, the state~~
6 ~~department shall take action immediately to ensure that the public~~
7 ~~records reflect in a prominent manner that the proposed fine was~~
8 ~~dismissed or reduced.~~

9 ~~(6) In lieu of a judicial proceeding, the state department and the~~
10 ~~hospital may jointly elect to submit the matter to binding~~
11 ~~arbitration, in which case, the department shall initiate arbitration~~
12 ~~proceedings. The parties shall agree upon an arbitrator designated~~
13 ~~by the American Arbitration Association in accordance with the~~
14 ~~Association's established rules and procedures. The arbitration~~
15 ~~hearing shall be set within 45 days of the parties' joint election,~~
16 ~~but in no event less than 28 days from the date of selection of an~~
17 ~~arbitrator. The arbitration hearing may be continued up to 15 days~~
18 ~~if necessary at the arbitrator's discretion. The decision of arbitrator~~
19 ~~shall be based upon substantive law and shall be binding on all~~
20 ~~parties, subject to judicial review. This review shall be limited to~~
21 ~~whether there was substantial evidence to support the decision of~~
22 ~~the arbitrator.~~

23 ~~(7) Proceedings by the board to impose a fine under Section~~
24 ~~1317.6 shall be conducted in accordance with Chapter 5~~
25 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~
26 ~~2 of the Government Code.~~

27 ~~SEC. 3. Section 1317.6 of the Health and Safety Code is~~
28 ~~amended to read:~~

29 ~~1317.6. (a) Hospitals found by the state department to have~~
30 ~~committed or to be responsible for a violation of this article or its~~
31 ~~implementing regulations shall be subject to a civil penalty by the~~
32 ~~state department in an amount not to exceed one million dollars~~
33 ~~(\$1,000,000) for each hospital violation. In determining the amount~~
34 ~~of the fine for a hospital violation, the state department shall take~~
35 ~~into account all of the following:~~

36 ~~(1) Whether the violation was knowing or unintentional.~~

37 ~~(2) Whether the violation resulted or was reasonably likely to~~
38 ~~result in a medical hazard to the patient.~~

39 ~~(3) The frequency or gravity of the violation.~~

~~(b) Notwithstanding this section, the director shall refer any alleged violation by a hospital owned and operated by a health care service plan involving a plan member or enrollee to the Department of Managed Health Care unless the director determines the complaint is without reasonable basis. The Department of Managed Health Care shall have sole authority and responsibility to enforce this article with respect to violations involving hospitals owned and operated by health care service plans in their treatment of plan members or enrollees.~~

~~(c) Physicians and surgeons found by the board to have committed, or to be responsible for, a violation of this article or its implementing regulations shall be subject to any and all penalties that the board may lawfully impose and may be subject to a civil penalty by the board in an amount not to exceed one million dollars (\$1,000,000) for each violation.~~

~~(d) The board may impose fines when it finds any of the following:~~

~~(1) The violation was knowing or willful.~~

~~(2) The violation was reasonably likely to result in a medical hazard.~~

~~(3) There are repeated violations.~~

~~(e) It is the intent of the Legislature that the state department has primary responsibility for regulating the conduct of hospital emergency departments.~~

~~(f) Any hospital found by the state department pursuant to procedures established by the state department to have committed a violation of this article or its implementing regulations may have its emergency medical service permit revoked or suspended by the state department.~~

~~(g) Any administrative or medical personnel who knowingly and intentionally violates any provision of this article, may be charged by the local district attorney with a misdemeanor.~~

~~(h) Notification of each violation found by the state department of the provisions of this article or its implementing regulations shall be sent by the state department to the Joint Commission for the Accreditation of Hospitals, the state emergency medical services authority, and local emergency medical services agencies.~~

~~(i) Any person who suffers personal harm and any medical facility that suffers a financial loss as a result of a violation of this article or its implementing regulations may recover, in a civil action~~

1 against the transferring or receiving hospital, damages, including
2 punitive damages, reasonable attorney's fees, and other appropriate
3 relief. Transferring and receiving hospitals from which
4 inappropriate transfers of persons are made or refused in violation
5 of this article and the regulations adopted hereunder shall be liable
6 for the reasonable charges of the receiving or transferring hospital
7 for providing the services and care that should have been provided.
8 Any person potentially harmed by a violation of this article or its
9 implementing regulations, or the local district attorney or the
10 Attorney General, may bring a civil action against the responsible
11 hospital or administrative or medical personnel, to enjoin the
12 violation, and if the injunction issues, the court shall award
13 reasonable attorney's fees. The provisions of this subdivision are
14 in addition to other civil remedies and do not limit the availability
15 of the other remedies.

16 (j) (1) The local district attorney or the Attorney General may
17 bring a civil action against an entity that violates an injunction
18 issued pursuant to subdivision (h).

19 (2) A court shall award a prevailing plaintiff who brings an
20 action pursuant to paragraph (1) all of the following:

21 (A) A civil penalty of up to one million dollars (\$1,000,000)
22 per violation.

23 (B) Reasonable attorney's fees and litigation costs.

24 (3) Each day that an entity violates an injunction issued pursuant
25 to subdivision (h) gives rise to a distinct violation of this section.

26 (4) The provisions of this subdivision are in addition to other
27 civil remedies and do not limit the availability of other remedies.

28 (k) The civil remedies established by this section do not apply
29 to violations of any requirements established by any county or
30 county agency.