

AMENDED IN SENATE MARCH 7, 2021

SENATE BILL

No. 379

Introduced by Senator Wiener

(Principal coauthors: Assembly Members Cristina Garcia and Low)

~~(Coauthor: Senator~~ **Coauthors: Senators Gonzalez and Laird)**

~~(Coauthor: Assembly Member~~ *Coauthors: Assembly Members Friedman
and Wicks)*

February 10, 2021

An act to add Chapter 3.95 (commencing with Section 12148) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 379, as amended, Wiener. University of California: contracts: health facilities.

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and require the university to be administered by the Regents of the University of ~~California (regents)~~, *California*, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes, including such competitive bidding procedures as may be applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services.

Existing law governs competitive bidding by the University of California and also establishes specific restrictions on University of California contracts relating to work performed by workers outside of the United States.

This bill would prohibit the University of California, on and after January 1, 2022, from entering ~~into~~ *into, amending, or renewing* any

contract with any health facility contractor or subcontractor in which a health care practitioner employed by the University of California or a trainee of the University of California providing care in the health facility *under that contract* would be limited in the practitioner’s or trainee’s ability to provide patients with medical information or medical services due to policy-based restrictions on care in the health facility. The bill would require any contract between the University of California and a health facility pursuant to which a University of California-employed health care practitioner or trainee of the University of California provides care in the health facility to include a provision restating the substance of that prohibition. The bill would require any contract between the University of California and a health facility pursuant to which a University of California-employed health care practitioner or trainee of the University of California provides care in the health facility to provide that, in the event the health facility contractor or subcontractor violates the prohibition, the contract shall be terminated for noncompliance, and the contractor or subcontractor shall forfeit penalties to the University of California, as appropriate, in an amount equal to the amount paid by the university for the percentage of work that was performed. *The bill would exempt from its provisions contracts between the University of California and prescribed health facility contractors or subcontractors.* The bill would define terms for these purposes.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The University of California is a public university system
- 4 in the State of California and receives a sizable amount of public
- 5 funds to conduct its mission. The University of California’s portion
- 6 of the California state budget in 2020–2021 was \$9 billion, \$3.5
- 7 billion of which is from the General Fund.
- 8 (b) UC Health is the fourth largest health care system in
- 9 California and it trains more than one-half of the medical students
- 10 and residents in California.
- 11 (c) Existing law recognizes that all reproductive health care,
- 12 including abortion, is basic health care. Existing law further

1 recognizes that public entities in California may not preference
2 one pregnancy outcome over another.

3 (d) Existing law recognizes that denying transgender patients
4 gender-affirming care is discrimination based on gender identity.

5 (e) *Existing law recognizes that adults have a range of health*
6 *care options for the end of life, including continuing measures to*
7 *sustain life, withholding or withdrawing life-sustaining treatments,*
8 *voluntarily forgoing food or drink, palliative treatments that may*
9 *advance the time of death, hospice care, and medical aid in dying.*
10 *These are personal decisions individuals make about their own*
11 *lives and loved ones. Public entities should not favor one*
12 *preference over the other.*

13 (f) *Existing law recognizes the need to protect patient access*
14 *to comprehensive health care services free from bias and*
15 *discrimination, as evidenced through the state Medi-Cal program,*
16 *which prohibits any participating provider from discriminating*
17 *against any beneficiary on the basis of race, color, age, sex,*
18 *religion, ancestry, national origin, or physical or mental disability.*

19 (~~e~~)

20 (g) The University of California has entered into contracts with
21 health facility contractors in which University of
22 California-employed health care practitioners and trainees of the
23 University of California have been subjected to policy-based
24 restrictions on care in the health facility that prevent the University
25 of California practitioners and trainees from providing patients
26 with medical information and services that are medically necessary
27 and appropriate.

28 (~~f~~)

29 (h) Policy-based restrictions on care have serious implications
30 for patients of color, particularly Black and Latinx low-income
31 patients, whose unequal access to care has been largely dictated
32 by the legacy of structural racism and socioeconomic inequities
33 deeply embedded throughout the health care system.

34 (~~g~~)

35 (i) Policy-based restrictions on care undermine the University
36 of California's values of prioritizing patient-centered care,
37 delivering evidence-based high-quality care, providing access to
38 comprehensive reproductive health care, and ensuring access to
39 nondiscriminatory care.

1 SEC. 2. Chapter 3.95 (commencing with Section 12148) is
2 added to Part 2 of Division 2 of the Public Contract Code, to read:

3
4 CHAPTER 3.95. UNIVERSITY OF CALIFORNIA AND HEALTH
5 FACILITY CONTRACTS
6

7 12148. (a) Notwithstanding any other law, on and after January
8 1, 2022, the University of California shall not enter ~~into~~ *into*,
9 *amend, or renew* any contract with any health facility contractor
10 or subcontractor in which a health care practitioner employed by
11 the University of California or a trainee of the University of
12 California providing care in the health facility *under that contract*
13 would be limited in the practitioner’s or trainee’s ability to provide
14 patients with medical information or medical services due to
15 policy-based restrictions on care in the health facility.

16 (b) Any contract between the University of California and a
17 health facility pursuant to which a University of
18 California-employed health care practitioner or trainee of the
19 University of California provides care in the health facility shall
20 include a provision restating the substance of subdivision (a).

21 (c) Any contract between the University of California and a
22 health facility pursuant to which a University of
23 California-employed health care practitioner or trainee of the
24 University of California provides care in the health facility shall
25 provide that, in the event the health facility contractor or
26 subcontractor violates subdivision (a), the contract shall be
27 terminated for noncompliance, and the contractor or subcontractor
28 shall forfeit penalties to the University of California, as appropriate,
29 in an amount equal to the amount paid by the university for the
30 percentage of work that was performed.

31 (d) *This section shall not apply to a contract between the*
32 *University of California and a health facility contractor or*
33 *subcontractor that is any of the following:*

34 (1) *Located and operated in a foreign country.*

35 (2) *Operated by the United States Department of Veterans*
36 *Affairs.*

37 (3) *An Indian Health Service facility.*

38 ~~(4)~~

39 (e) For purposes of this section:

1 (1) “Health facility” shall have the same meaning as in Section
2 1250 of the Health and Safety Code.

3 (2) “Health care practitioner” has the same meaning as defined
4 in subdivision (c) of Section 680 of the Business and Professions
5 Code.

6 (3) “Medical services” means medical treatments, referrals, and
7 procedures.

8 (4) “Policy-based restrictions on care” means *any* nonclinical
9 criteria, rules, or policies, whether written or unwritten, that
10 ~~preclude~~ *restrict* health care practitioners at that health facility
11 from providing ~~types of care~~ *any procedures or benefits that are*
12 *considered covered benefits under the Medi-Cal program or any*
13 *Medi-Cal specialty programs that* the health care practitioners are
14 licensed to provide and that the health facility has the equipment
15 and facilities to ~~provide or that preclude the provision of care to~~
16 ~~categories of patients protected under Section 51 of the Civil Code~~
17 ~~that the general acute care hospital is licensed to provide.~~

18 (5) “Trainee of the University of California” means a resident
19 or fellow employed by the University of California or a student
20 enrolled in the University of California in a health care practitioner
21 discipline.