

AMENDED IN SENATE MAY 4, 2021

AMENDED IN SENATE APRIL 8, 2021

AMENDED IN SENATE MARCH 7, 2021

**SENATE BILL**

**No. 379**

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**Introduced by Senator Wiener**

(Principal coauthors: Assembly Members Cristina Garcia and Low)

**(Coauthors: Senators Gonzalez, Hurtado, Laird, and Leyva)**

(Coauthors: Assembly Members Friedman and Wicks)

February 10, 2021

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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, 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, 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 require the University of California to ensure that a health care practitioner or trainee of the University of California is able to complete their training. The bill would prohibit the University of California from extending or delaying a health practitioner's training due to the loss of a clinical training rotation. The bill would require the University of California, before January 1, 2025, to find alternative facilities for trainees to complete their training. *The bill would exempt from these provisions contracts in existence before January 1, 2022, that pertain to at least one health care practitioner who is a trainee of a University of California campus that does not own or operate its own health facility, until the earlier of January 1, 2028, or the date the University of California campus acquires ownership of, or begins operating, a health facility.* 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~~ 2020–21 was \$9  
7 billion, \$3.5 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  
13 recognizes that public entities in California may not preference  
14 one pregnancy outcome over another.

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

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

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

31      (g) The University of California has entered into contracts with  
32 health facility contractors in which University of  
33 California-employed health care practitioners and trainees of the  
34 University of California have been subjected to policy-based  
35 restrictions on care in the health facility that prevent the University  
36 of California practitioners and trainees from providing patients  
37 with medical information and services that are medically necessary  
38 and appropriate.

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

6 (i) Policy-based restrictions on care undermine the University  
7 of California's values of prioritizing patient-centered care,  
8 delivering evidence-based high-quality care, providing access to  
9 comprehensive reproductive health care, and ensuring access to  
10 nondiscriminatory care.

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

## CHAPTER 3.95. UNIVERSITY OF CALIFORNIA AND HEALTH FACILITY CONTRACTS

17       12148. (a) (1) Notwithstanding any other law, on and after  
18 January 1, 2022, the University of California shall not enter into,  
19 amend, or renew any contract with any health facility contractor  
20 or subcontractor in which a health care practitioner employed by  
21 the University of California or a trainee of the University of  
22 California providing care in the health facility under that contract  
23 would be limited in the practitioner's or trainee's ability to provide  
24 patients with medical information or medical services due to  
25 policy-based restrictions on care in the health facility.

26       (2) (A) Except as provided in subparagraph (B), this section  
27 shall not apply to contracts described in paragraph (1), if they  
28 meet both of the following criteria:

29 (i) The contract was in existence before January 1, 2022.

30       (ii) The contract pertains to at least one health care practitioner  
31 who is a trainee of a University of California campus that, as of  
32 January 1, 2022, does not own or operate its own health facility.

33       (B) Contracts exempt from this section under subparagraph (A)  
34 shall comply with this section no later than the earlier of the  
35 following dates: January 1, 2028, or the date the University of  
36 California campus acquires ownership of, or begins operating, a  
37 health facility.

38 (b) Any contract between the University of California and a  
39 health facility pursuant to which a University of  
40 California-employed health care practitioner or trainee of the

1 University of California provides care in the health facility shall  
2 include a provision restating the substance of subdivision (a).

3 (c) Any contract between the University of California and a  
4 health facility pursuant to which a University of  
5 California-employed health care practitioner or trainee of the  
6 University of California provides care in the health facility shall  
7 provide that, in the event the health facility contractor or  
8 subcontractor violates subdivision (a), the contract shall be  
9 terminated for noncompliance, and the contractor or subcontractor  
10 shall forfeit penalties to the University of California, as appropriate,  
11 in an amount equal to the amount paid by the university for the  
12 percentage of work that was performed.

13 (d) This section shall not apply to a contract between the  
14 University of California and a health facility contractor or  
15 subcontractor that is any of the following:

16 (1) Located and operated in a foreign country.  
17 (2) Operated by the United States Department of Veterans  
18 Affairs.

19 (3) An Indian Health Service facility.

20 (e) Notwithstanding subdivision (a), the University of California  
21 shall ensure that a health care practitioner or trainee of the  
22 University of California is able to complete their training. The  
23 University of California shall not extend or delay a health  
24 practitioner's training due to the loss of a clinical training rotation.  
25 The University of California, before January 1, 2025, shall find  
26 alternative facilities for trainees to complete their training.

27 (f) For purposes of this section:

28 (1) "Health facility" shall have the same meaning as in Section  
29 1250 of the Health and Safety Code.

30 (2) "Health care practitioner" has the same meaning as defined  
31 in subdivision (c) of Section 680 of the Business and Professions  
32 Code.

33 (3) "Medical services" means medical treatments, referrals, and  
34 procedures.

35 (4) "Policy-based restrictions on care" means any nonclinical  
36 criteria, rules, or policies, whether written or unwritten, that restrict  
37 health care practitioners at that health facility from providing any  
38 procedures or benefits that are considered covered benefits under  
39 the Medi-Cal program or any Medi-Cal specialty programs that

- 1 the health care practitioners are licensed to provide and that the
- 2 health facility has the equipment and facilities to provide.
- 3 (5) “Trainee of the University of California” means a resident
- 4 or fellow employed by the University of California or a student
- 5 enrolled in the University of California in a health care practitioner
- 6 discipline.

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