AB-1037 Martin Luther King, Jr. Community Hospital: clinics: licensure and regulation: exemption. (2019-2020)

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Assembly Bill No. 1037

CHAPTER 499

An act to amend Section 1206 of the Health and Safety Code, and to amend Section 14165.50 of the Welfare and Institutions Code, relating to clinics.

[Approved by Governor October 03, 2019. Filed with Secretary of State October 03, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1037, Gipson. Martin Luther King, Jr. Community Hospital: clinics: licensure and regulation: exemption.

Existing law provides for the regulation and licensure of clinics, as defined, by the State Department of Public Health. Under existing law, specified types of clinics are exempted from these licensing provisions, including clinics conducted, operated, or maintained as outpatient departments of hospitals, and clinics operated by nonprofit corporations that satisfy requirements regarding medical research and the receipt of charitable contributions and bequests.

This bill would expand the licensing exemption to include any clinic operated by a nonprofit corporation that provides health care services within any zip code that is located within six miles of the physical location of the Martin Luther King, Jr. Community Hospital, is located in the Los Angeles County Service Planning Area 6, and meets specified requirements, such as serving indigent and uninsured individuals pursuant to a charity care policy and participating in a graduate medical education program that is administered by the Martin Luther King, Jr. Community Hospital. The bill would, by July 1, 2022, require each clinic that is exempt from clinic licensing provisions pursuant to this exemption to report to the Legislature on specified topics, including a community needs assessment for physicians and surgeons.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that Medi-Cal funding be made available to a new hospital, now known as the Martin Luther King, Jr. Community Hospital, to serve the population of South Los Angeles.

This bill would make technical, nonsubstantive changes to these provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.

This bill would incorporate additional changes to Section 1206 of the Health and Safety Code proposed by AB 1128 to be operative only if this bill and AB 1128 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. This subdivision does not preclude the department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) (1) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(2) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), regardless of the location of the clinic, except that if the clinic chooses to apply to the State Department of Public Health for a state facility license, then the State Department of Public Health will retain authority to regulate that clinic as a primary care clinic as defined by subdivision (a) of Section 1204.

(d) A clinic conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated by a primary care community or free clinic and that is operated on separate premises from the licensed clinic and is only open for limited services of no more than 40 hours a week. An intermittent clinic as described in this subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and

treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5667 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars ($5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “affiliated” only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “associated” only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) By January 1, 2007, and every five years thereafter, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic’s activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic’s research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings. The cost of preparing the reports shall be borne by the clinics that are required to submit them to the Legislature pursuant to this paragraph.

(q) (1) A clinic, including any location thereof, operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively to provide health care services and health education services within the Los Angeles County Service Planning Area 6, is located in a Clinic Service Area, as defined in paragraph (3), and satisfies all of the following requirements:

(A) Provides health care services and health education services solely within a Clinic Service Area, as defined in paragraph (3).

(B) Provides health care services to patients through an independent agreement with a multispecialty medical group of 26 or more physicians and surgeons who represent not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic by July 1, 2021.

(C) Serves substantial beneficiaries of a "federal health care program," as that term is defined in subsection (f) of Section 1320a-7b of Title 42 of the United States Code and indigent and uninsured individuals pursuant to an authorized and adopted charity care policy.

(D) Participates in a graduate medical education program that is administered by the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code, in furtherance of its charitable mission to reduce health care disparities in a Clinic Service Area, as defined in paragraph (3), through the training and retention of physicians and surgeons by 2022.

(2) (A) By July 1, 2022, and every five years thereafter, a clinic that is exempt from licensing provisions pursuant to this subdivision shall provide the Legislature with a report that includes all of the following:

(i) A copy of the current Community Health Needs Assessment, developed by the Martin Luther King, Jr. Community Hospital.

(ii) A community needs assessment for physicians and surgeons, including an analysis of the clinic's role in physician and surgeon recruitment and retention, and meeting the community needs for a physician and surgeon workforce.

(iii) A copy of the Martin Luther King, Jr. Community Hospital's most recent Internal Revenue Service Form 990, Schedule H, including a description of the federally-funded payer mix, and identification of the clinic as a component of the Martin Luther King, Jr. Community Hospital's community benefit activities.

(iv) The clinic's role in the hospital-sponsored graduate medical education program.

(v) An analysis of how the clinic impacted physicians and surgeons practicing or providing services in the Clinic Service Area prior to January 1, 2020.

(B) A report to be submitted pursuant to subparagraph (A) of paragraph (2) shall be submitted in compliance with Section 9795 of the Government Code.

(3) For purposes of this subdivision, "Clinic Service Area" means the geographic area within any zip code that is located within six miles of the physical location of the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code.

SEC. 1.5. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. This subdivision does not preclude the department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) (1) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(2) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), regardless of the location of the clinic, except that if the clinic

chooses to apply to the State Department of Public Health for a state facility license, then the State Department of Public Health will retain authority to regulate that clinic as a primary care clinic as defined by subdivision (a) of Section 1204.

(d) A clinic conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated by a primary care community or free clinic and that is operated on separate premises from the licensed clinic and is only open for limited services of no more than 40 hours a week. An intermittent clinic as described in this subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5667 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars ($5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “affiliated” only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as “associated” only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) By January 1, 2007, and every five years thereafter, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic’s activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic’s research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings. The cost of preparing the reports shall be borne by the clinics that are required to submit them to the Legislature pursuant to this paragraph.

(q) A primary care clinic operated as part of a Program of All-Inclusive Care for the Elderly (PACE) organization, as defined in Section 460.6 of Title 42 of the Code of Federal Regulations and approved by the State Department of Health Care Services pursuant to Section 14592 of the Welfare and Institutions Code, that exclusively serves PACE participants, as defined in Section 460.6 of Title 42 of the Code of Federal Regulations.

(1) A primary care clinic approved by the State Department of Health Care Services pursuant to Section 14592 of the Welfare and Institutions Code to operate exclusively as part of a PACE organization may provide services to individuals who are being assessed for eligibility to enroll in the PACE program for not more than 60 calendar days after an individual submits an application for enrollment.

(2) If the State Department of Health Care Services determines that a primary care clinic approved to operate exclusively as part of a PACE organization has provided services to individuals other than those enrolled in the PACE program, or who are being assessed for eligibility pursuant to paragraph (1), the clinic shall apply for licensure with the State Department of Public Health. A clinic required to obtain licensure from the State Department of Public Health pursuant to this paragraph shall apply for the license not later than 60 calendar days following the determination by the State Department of Health Care Services described in this paragraph. The clinic shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision shall become operative only if the Director of Health Care Services determines, and communicates that determination in writing to the State Department of Public Health, that operating standards compliance programs consistent with subdivisions (d) and (e) of Section 14592 of the Welfare and Institutions Code have been established. A primary care clinic described in subdivision (c) of Section 14592 of the Welfare and Institutions Code shall remain under the oversight and regulatory authority of the State Department of Public Health until the Director of Health Care Services communicates their written determination to the State Department of Public Health.

(r) (1) A clinic, including any location thereof, operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively to provide health care services and health education services within the

Los Angeles County Service Planning Area 6, is located in a Clinic Service Area, as defined in paragraph (3), and satisfies all of the following requirements:

(A) Provides health care services and health education services solely within a Clinic Service Area, as defined in paragraph (3).

(B) Provides health care services to patients through an independent agreement with a multispecialty medical group of 26 or more physicians and surgeons who represent not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic by July 1, 2021.

(C) Serves substantial beneficiaries of a "federal health care program," as that term is defined in subsection (f) of Section 1320a-7b of Title 42 of the United States Code and indigent and uninsured individuals pursuant to an authorized and adopted charity care policy.

(D) Participates in a graduate medical education program that is administered by the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code, in furtherance of its charitable mission to reduce health care disparities in a Clinic Service Area, as defined in paragraph (3), through the training and retention of physicians and surgeons by 2022.

(2) (A) By July 1, 2022, and every five years thereafter, a clinic that is exempt from licensing provisions pursuant to this subdivision shall provide the Legislature with a report that includes all of the following:

(i) A copy of the current Community Health Needs Assessment, developed by the Martin Luther King, Jr. Community Hospital.

(ii) A community needs assessment for physicians and surgeons, including an analysis of the clinic's role in physician and surgeon recruitment and retention, and meeting the community needs for a physician and surgeon workforce.

(iii) A copy of the Martin Luther King, Jr. Community Hospital's most recent Internal Revenue Service Form 990, Schedule H, including a description of the federally-funded payer mix, and identification of the clinic as a component of the Martin Luther King, Jr. Community Hospital's community benefit activities.

(iv) The clinic's role in the hospital-sponsored graduate medical education program.

(v) An analysis of how the clinic impacted physicians and surgeons practicing or providing services in the Clinic Service Area prior to January 1, 2020.

(B) A report to be submitted pursuant to subparagraph (A) of paragraph (2) shall be submitted in compliance with Section 9795 of the Government Code.

(3) For purposes of this subdivision, "Clinic Service Area" means the geographic area within any zip code that is located within six miles of the physical location of the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code.

SEC. 2. Section 14165.50 of the Welfare and Institutions Code is amended to read:

14165.50. (a) To facilitate the financial viability of the Martin Luther King, Jr. Community Hospital, a private nonprofit hospital that serves the population of South Los Angeles that was formerly served by the Los Angeles County Martin Luther King, Jr.-Harbor Hospital, Medi-Cal funding shall, at a minimum, be made available, as specified in this section, or pursuant to mechanisms that provide equivalent funding under successor or modified Medi-Cal payment systems.

(b) Medi-Cal payment for hospital services provided by the hospital, exclusive of any payments under the Medi-Cal Hospital Reimbursement Improvement Act of 2013 (Article 5.230 (commencing with Section 14169.50)) or funded by another statewide hospital fee program, and exclusive of the supplemental payments specified in subdivision (d), shall include consideration of the hospital's projected Medi-Cal costs for providing the services as set forth in this section.

(1) (A) Subject to paragraph (2) of subdivision (c), and notwithstanding any other law, Medi-Cal payments made to the hospital on a fee-for-service basis, including payments made pursuant to the methodology authorized under Section 14105.28 or successor or modified methodologies, shall provide compensation that is, at a minimum, equal to 100 percent of the hospital's projected Medi-Cal costs for each fiscal year.

(B) To the extent supplemental payments are necessary for any fiscal year to meet the applicable minimum reimbursement level, as described in subparagraph (A), the department shall seek federal approval, as necessary, to enable the hospital to receive the Medi-Cal supplemental payments.

(2) (A) To the extent permitted under federal law, the department shall require Medi-Cal managed care plans serving Medi-Cal beneficiaries in the County of Los Angeles to pay the hospital amounts determined necessary to meet compensation levels for services provided to Medi-Cal managed care enrollees that are no less than the amount to which the hospital would have received on a fee-for-service basis pursuant to paragraph (1). The amounts shall be determined in consultation with the hospital, the County of Los Angeles, and the Medi-Cal managed care plan, and shall be subject to paragraph (2) of subdivision (c).

(B) Consistent with federal law, the capitation rates paid to Medi-Cal managed care plans serving Medi-Cal beneficiaries in the County of Los Angeles shall be determined to reflect the obligations described in subparagraph (A). The increased payments to Medi-Cal managed care plans that would be paid consistent with actuarial certification and enrollment in the absence of this paragraph shall not be reduced as a consequence of this paragraph.

(C) A Medi-Cal managed care plan receiving the increased payments described in subparagraph (B) shall not impose a fee or retention amount, or reduce other payments to the hospital that would result in a direct or indirect reduction to the amounts required to be paid under subparagraph (A).

(3) This subdivision shall not be construed to result in payments that are less than the rates of compensation that would be payable to the hospital for Medi-Cal services without regard to the requirements of paragraphs (1) and (2).

(c) If the applicable minimum reimbursement levels required in subdivision (b) result in payments to the hospital that are above the levels of compensation that would have been payable absent that requirement, and to the extent a nonfederal share is necessary with respect to the additional compensation, the following provisions shall apply:

(1) (A) For each fiscal year through the 2016–17 fiscal year, General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program shall fund the nonfederal share of the additional payments to the extent that the rates of compensation for inpatient hospital services provided by the hospital that would have been payable in the absence of the requirements of subdivision (b) are less than 77 percent of the hospital's projected Medi-Cal costs. With respect to the nonfederal share of the additional payments described in paragraph (2) of subdivision (b), however, this subparagraph shall be applicable only for inpatient services provided in conjunction with the implementation of Section 14182, and other mandatory managed care enrollment provisions implemented subsequent to January 1, 2011.

(B) For the 2017–18 fiscal year and each fiscal year thereafter, General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program shall fund the nonfederal share of the additional payments to the extent that the rates of compensation for inpatient hospital services provided by the hospital that would have been payable in the absence of the requirements of subdivision (b) are less than 72 percent of the hospital's projected Medi-Cal costs. With respect to the nonfederal share of the additional payments described in paragraph (2) of subdivision (b), however, this subparagraph shall be applicable only for inpatient services provided in conjunction with the implementation of Section 14182, and other mandatory managed care enrollment provisions implemented subsequent to January 1, 2011.

(2) (A) The remaining necessary nonfederal share of the additional payments, after taking into account the General Fund amounts described in paragraph (1), may be funded with public funds that are transferred to the state from the County of Los Angeles, at the county's election, pursuant to Section 14164. To the extent the county elects not to fund any portion of the remaining necessary nonfederal share, the applicable minimum reimbursement levels required in subdivision (b) shall be reduced accordingly.

(B) Public funds transferred to the state for payments to the hospital, as described in this paragraph with respect to a fiscal period, shall be expended solely for the nonfederal share of the payments. Notwithstanding any other law, and except as provided in subdivision (m), the department shall not impose any fee or assessment in connection with the transferred funds or the payments provided for under this section, including, but not limited to, reimbursement for state staffing or administrative costs.

(C) If any portion of the funds transferred pursuant to this paragraph is not expended, or not expected to be expended, for the specified rate amounts required in subdivision (b), the unexpended funds shall be returned promptly to the transferring county.

(3) This subdivision shall not be construed to reduce the nonfederal share of payments funded by General Fund amounts below the amounts that would be funded without regard to the minimum payment levels required under this section.

(d) (1) In addition to payments meeting the applicable minimum reimbursement levels described in subdivision (b), the hospital shall be eligible to receive supplemental payments. The supplemental payments shall be provided annually in amounts determined in consultation with the hospital and the County of Los Angeles, and subject to paragraph (3).

(2) The department shall seek federal approval, as necessary, to enable the hospital to receive supplemental payments that are in addition to the applicable minimum reimbursement levels required in subdivision (b). The supplemental payments may be provided for under the mechanisms described in Sections 14166.12 and 14301.4 or successor or modified mechanisms, or any other federally permissible payment mechanism. Supplemental payments that are payable through a Medi-Cal managed care plan shall be subject to the same requirements described in subparagraph (C) of paragraph (2) of subdivision (b).

(3) If a nonfederal share is necessary to fund the supplemental payments, the County of Los Angeles may voluntarily provide public funds that are transferred to the state pursuant to Section 14164. The county may specify the type of supplemental payment for which it is transferring funds, and any other category relevant to the payment, including, but not limited to, fee-for-service supplemental payment, managed care rate range payment, and payment for services rendered to newly eligible beneficiaries as defined in subdivision (s) of Section 17612.2.

(4) Public funds transferred to the state for supplemental payments to the hospital, as described in this subdivision with respect to a fiscal period, shall be expended solely for the nonfederal share of the supplemental payments as specified pursuant to paragraph (3). Notwithstanding any other law, subdivision (o) of Section 14166.12 shall not apply, and the department shall not assess the fee described in subdivision (d) of Section 14301.4, or any other similar fee, except as provided in subdivision (m). If any portion of the funds transferred pursuant to this subdivision is not expended, or not expected to be expended, for the specified supplemental payments, the unexpended funds shall be returned promptly to the transferring county.

(e) Notwithstanding any other law, all payments provided for under this section shall be treated as having been paid for purposes of any determination of available room under the federal upper payment limit, as specified in Part 447 of Title 42 of the Code of Federal Regulations, with respect to the applicable class of services and class of health care provider.

(f) (1) For purposes of this article, “hospital” means a health facility that is certified under Title XVIII and Title XIX of the federal Social Security Act, and is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility, with an inpatient hospital service location on the campus of the Martin Luther King, Jr. Community Hospital.

(2) “Medi-Cal managed care plan” shall have the meaning provided in paragraph (5) of subdivision (b) of Section 14199.1.

(g) For purposes of this article, the hospital’s projected Medi-Cal costs shall be based on the cost finding principles applied under subdivision (b) of Section 14166.4, except that the projected costs shall not be multiplied by the federal medical assistance percentage and are not subject to the reimbursement limitations set forth in Article 7.5 (commencing with Section 51536) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations. The projected Medi-Cal costs shall be determined prior to the start of each fiscal year in consultation with the hospital, using the best available and reasonable current estimates or projections made with respect to the hospital for an annual period, and shall be considered final as of the start of the fiscal year for purposes of the minimum payment levels described in subdivision (b).

(h) Notwithstanding any other law, the hospital shall not be eligible to receive payments pursuant to Section 14166.11. This subdivision, however, shall not be construed to preclude the hospital from eligibility for disproportionate share status, or from receipt of any federal Medicaid disproportionate share hospital payments to which it would be entitled, pursuant to the Medi-Cal State Plan.

(i) Except as specified in subdivision (h), this section shall not be construed to preclude the hospital from receiving any other payment for which it is eligible in addition to the payments provided for by this section.

(j) Notwithstanding any other law, for purposes of Article 12 (commencing with Section 17612.1) of Chapter 6 of Part 5, the intergovernmental transfers described in this section as reflected in the actual net expenditures for all operating budget units of the County of Los Angeles Department of Health Services shall not be reduced in any manner in the determination of total costs under paragraph (6) of subdivision (b) of Section 17612.5, by application of the imputed other entity intergovernmental transfer amounts or otherwise.

(k) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of all-facility letters, all-county letters, or similar instructions, without taking further regulatory action. This section shall not be construed to preclude the department from adopting regulations.

(l) (1) The department shall obtain federal approvals or waivers as necessary to implement this section and to obtain federal matching funds to the maximum extent permitted by federal law. This section shall be implemented only if, and to the extent that, federal financial participation is available and this section does not jeopardize the federal financial participation available for any other state program.

(2) This section shall be implemented only if, and to the extent that, any necessary federal approvals are obtained.

(m) As part of its voluntary participation to provide the nonfederal share of payments under this section, the County of Los Angeles shall agree to reimburse the state for the nonfederal share of state staffing and administrative costs directly attributable to the cost of administrating the payments and associated intergovernmental transfers. The costs shall be documented and subject to review by the county.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances applicable to the Los Angeles County Service Planning Area 6 within the County of Los Angeles with respect to the reduction of health disparities in this community.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 1206 of the Health and Safety Code proposed by both this bill and Assembly Bill 1128. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 1206 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1128, in which case Section 1 of this bill shall not become operative.