

SB 1269 (Beall) – FACT SHEET

Act Relates to Observation Service

BACKGROUND

Trends in the use of outpatient settings for the provision of acute care to patients are changing as a result of hospital efforts to achieve the goals of the ACA to lower costs, to maximize reimbursement under new federal payment models that incent avoidance of hospital readmission. Two such trends are increased utilization of “observation services” as an alternative to hospital admission, as well as the shift of complex surgical procedures from inpatient to outpatient surgical settings.

Observation services are outpatient services rendered to patients who are not admitted to the hospital as inpatients, but who are also not able to be safely discharged home. Observation beds are often adjacent to or within emergency departments. However, observation beds are sometimes located in different areas of the hospital. Patients may be placed in observation for prolonged periods of time, even exceeding 72 hours. Observation stays by Medicare beneficiaries that exceeded 72 hours grew by 88 percent between 2007 and 2009.¹

THE PROBLEM

Because observation is an outpatient service, observation is not subject to many of the laws and regulations designed to ensure patient safety and adequate staffing standards. The increasing use of these settings for patients in need of inpatient care raises serious concerns about patient access to safe levels of care and services.

Many patients are not aware that they are placed in observation, leaving them to believe they are admitted as inpatients. Further, placement in observation may impact reimbursement by third-party payers, leaving patients vulnerable to hospital bills if their insurer does not fully cover outpatient services like observation. This is especially concerning for patients discharged to long-term care facilities, as Medicare requires patients to be admitted as *inpatients* for three days before coverage for

long-term care will kick in. Time spent in outpatient observation does not count toward this three-day coverage, leaving many Medicare patients responsible for paying for their long-term care facility stay.

Patients in observation are not protected by safe staffing or other standards that are required for inpatients. Additionally, hospitals are not required to report data to the state on observation service utilization, which leaves the public with a dearth of information on how often and for what reasons outpatient observation services are used.

THIS BILL

SB 1269 (Beall) will address these concerns with a reasonable approach to ensure safe standards in hospital observation. Specifically, the bill would require hospitals to:

- Obtain approval from the state to provide an observation service as a supplemental or specially permitted service, and limit the period of time a patient may be placed in observation to 24 hours making it consistent with time limitations imposed on other outpatient settings.
- Require observation services to meet the same staffing standards, including licensed nurse-to-patient ratios, as emergency rooms, or other applicable ratio depending on the unit the observation patient is held.
- Require hospitals to provide notice to patients that observation services are “outpatient” services and third-party reimbursement may be impacted.
- Require hospitals to report observation services to the Office of Statewide Health Planning and Development.

SUPPORT

California Nurses Association (Sponsor)

OPPOSE

¹ *Health Affairs*, 31, no.10 (2012):2314-2323
Making Greater Use Of Dedicated Hospital Observation Units For Many Short-Stay Patients Could Save \$3.1 Billion A Year
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STATUS

Senate Health Committee

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