



BERKELEY CITY COUNCILMEMBER
TERRY TAPLÍN
 DISTRICT 2

CONSENT CALENDAR
 July 27, 2021

To: Honorable Mayor and Members of the City Council
 From: Councilmember Taplin
 Subject: Letter of Support for Senate Bill 379

RECOMMENDATION

Send a letter of support for Senate Bill 379 to State Senator Scott Wiener (D-SF), State Senator Nancy Skinner (D-Berkeley), Asm. Buffy Wicks (D-Oakland) and Senate President Pro Tempore Toni Atkins (D-San Diego).

FINANCIAL IMPLICATIONS

None.

CURRENT SITUATION AND ITS EFFECTS

The state of California requires both public and private healthcare plans to cover contraception and abortion services and prohibits all healthcare providers from discriminating based on sexual orientation and gender identity, including in the provision of gender-affirming care. However, the University of California has entered into contracts with hospitals that limit the reproductive and gender-affirming services UC providers and students can provide. These restrictions are not based on any clinical criteria or logistical limitations, only on the policies of the UC contractors, which can result in discriminatory and substandard patient care. In June of 2021, the UC Board of Regents voted to phase out its partnerships with some Catholic hospitals by the end of 2023.¹

According to a letter from health equity advocates to the UC Regents, “Patients of color, low-income patients and others who experiencing systemic barriers to health care access are most in need of quality, comprehensive care, including comprehensive reproductive health care and bias-free care for LGBTQ people.”² Dignity Health, the largest Catholic hospital network in California, recently argued before States Supreme

¹ Swartz, K. (2021, June 24). UC regents vote to restrict hospital partnerships with Catholic health care providers. *Sacramento Bee*. Retrieved from <https://www.sacbee.com/news/politics-government/capitol-alert/article252319893.html>

² Letter from health equity advocates, p.3 (March 16, 2020), available at: <https://www.aclunc.org/sites/default/files/2020.03.16%20UC%20affiliations%20guidelines%20health%20equity%20letter.pdf>

Court for its constitutional right to refuse to allow a transgender patient in Sacramento to undergo a hysterectomy.³

BACKGROUND

SB 379 would prohibit the University of California from entering into any contract with a health facility contractor or subcontractor that limits UC healthcare employees or trainees from providing patients with information or services due to non-clinical, discriminatory restrictions. If such restrictions are violated, the bill would also require that any contract between the University of California and a health facility be terminated. Despite the UC Regents' voting to phase out some restrictive contracts, its contracts with restrictive health providers have only been found through responses to Public Records Act requests (see Attachment 3).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Terry Taplin Council District 2 510-981-7120

Attachments:

- 1: Letter
- 2: SB 379 bill text
- 3: SB 379 FAQ

³ Pet. for Writ of Cert., p. 1 (March 13, 2020), available at:
https://www.supremecourt.gov/DocketPDF/19/19-1135/138108/20200313135600983_Dignity%20Health%20Petition.pdf



The Honorable Scott Wiener
State Capitol
Room 5100
Sacramento, CA 95814-4900

July 27, 2021

Senator Wiener:

The City Council of the City of Berkeley is proud to declare its support for your Bill, SB 379. As the hometown of the University of California's flagship campus, we believe it is critically important to guarantee basic medical care through the UC Health system.

Reproductive care, including abortion, and LGBTQ-inclusive care must be considered basic healthcare by all public agencies. Despite public outcry, the UC Board of Regents has been reluctant to affirm human rights for women and the LGBTQ community through its healthcare contracting practices. The Board's recent vote to phase out some contracts with restrictive healthcare providers by the end of 2023 was a much-welcome change in its policies, but it is not fast or comprehensive enough to guarantee equitable medical care for UC patients.

As your office correctly notes, there is no evidence that contracting with restrictive healthcare entities increases the availability or quality of care for communities with limited healthcare resources. To the contrary, restrictive care would impose a disproportionate burden on low-income communities and people of color.

We thank you for your leadership on this important issue and look forward to your bill's passage.

Kind Regards,

The Berkeley City Council
2180 Milvia St
Berkeley, CA 94704

cc:

Senator Nancy Skinner
Assembly member Buffy Wicks
Senator Toni Atkins

AMENDED IN SENATE MAY 4, 2021

AMENDED IN SENATE APRIL 8, 2021

AMENDED IN SENATE MARCH 7, 2021

SENATE BILL

No. 379

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

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.

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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.

1 (h) Policy-based restrictions on care have serious implications
2 for patients of color, particularly Black and Latinx low-income
3 patients, whose unequal access to care has been largely dictated
4 by the legacy of structural racism and socioeconomic inequities
5 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:

13
14 CHAPTER 3.95. UNIVERSITY OF CALIFORNIA AND HEALTH
15 FACILITY CONTRACTS
16

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

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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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**SB 379 - Equitable and Inclusive UC Healthcare Act
Frequently Asked Questions**

Q: Does this bill prohibit the University of California from contracting with other health systems? What if the health system is religiously-affiliated?

A: No. This bill does not prohibit the UC from contracting with any other health system, including religiously-affiliated health systems. Rather, SB 379 ensures that UC healthcare providers practicing in non-UC facilities are able to provide the critical care patients need, including reproductive and LGBTQ-inclusive care. UC Health is welcome to contract with any hospital system—including religiously-affiliated health systems—as long as those hospital systems don't restrict UC personnel and trainees from providing comprehensive services and information to patients. The UC health system is renowned for its quality of care; this bill ensures that patients have access to the same level of care in every facility they are treated by a UC provider.

Q: What are some ways that the University of California can contract with other health systems under this bill?

A: There are many ways that the UC can contract with other health systems under this bill. For example: (1) The UC can contract with health systems that do not restrict reproductive and LGBTQ-inclusive healthcare; (2) If contracting with health systems that do restrict reproductive and LGBTQ-inclusive care, contract only in ways that do not require UC providers to treat patients in restrictive facilities—for example, contract to send patients from the restrictive health system to UC facilities; or (3) If contracting with health systems that restrict reproductive and LGBTQ-inclusive care, carve out areas in restrictive facilities in which UC personnel and trainees could provide the full range of care.

Q: Would this bill restrict access to care for rural Californians and people with low incomes?

A: No. Underserved communities need access to comprehensive care, not restricted care. To say that “any care is better than no care at all” is both to ignore our state’s nondiscrimination and healthcare access laws and is a serious disservice to patients. The UC is welcome to contract with any hospital system, as long as that system allows UC personnel and trainees to provide the full range of care, subject only to capacity and equipment limitation. As [health equity advocates informed the UC Regents](#) regarding these contracts: “Patients of color, low-income patients and others who experience systemic barriers to healthcare access are most in need of quality, comprehensive care, including comprehensive reproductive health care and bias-free care for LGBTQ people.”

There is also no evidence that contracts with restrictive health systems are necessary to increase access to care. Many of the problematic contracts UC Health has entered into are in urban areas—like



San Francisco—where there are other options: non-restrictive health systems UC Health could contract with. But even in a non-urban part of California, the Inland Empire, hospitals that impose non-medical restrictions on care make up less than a quarter of hospitals serving low-income and underserved patients. Health equity advocates have pointed out a range of alternatives that would provide significant care to underserved patients that do not place restrictions on care, including evidence-based strategies like mobile and pop-up clinics and expanding community health centers.

Q: No hospital provides all services, and transferring patients to another hospital is a normal part of healthcare. Why is it a problem for UC providers to transfer patients when the hospital they're practicing in has restrictions on care?

A: The problem is UC—a public institution—denying patients routine and essential healthcare, solely based on non-medical restrictions of non-UC facilities. *Transferring patients because a hospital doesn't have the equipment or specialization to provide the service is entirely different from transferring a patient because the hospital has a policy-based restriction on reproductive and LGBTQ care—this second type of transfer unnecessarily puts patient health at risk and is a form of discrimination.* For example, some policy-based restrictions prohibit hysterectomies for trans men even at hospitals that regularly provide them to cisgender women; transferring patients under these circumstances is akin to putting a sign on the door that says “we don’t treat trans people”. Other policy-based restrictions on care—like those that define treatment for miscarriage and ectopic pregnancy as “abortion”—are time-sensitive care, for which a delay can be life-threatening. Finally, forcing patients to transfer to receive routine procedures like tubal ligation adds additional, non-clinical barriers to medically necessary care. Tubal ligation is a quick procedure typically performed after giving birth, but if a patient is denied a desired tubal ligation after giving birth and is instead referred elsewhere, that patient will have to undergo an additional surgery. In all of the above scenarios, the transfer can cause patients emotional as well as physical harm. The bottom line is: healthcare delayed is healthcare denied.

Q: The University of California says that this bill is no longer necessary because its contracts do not restrict care. Why is this bill necessary? Isn't the issue solved?

A: No. Unfortunately, UC Health continues to contract to place its medical providers in health facilities where they are required to restrict patient care. Despite public outcry from the UC community, reproductive, LGBTQ, and health equity advocates, and both state and federal elected officials ([see stakeholder letters to the UC Regents here](#)), UC has withdrawn from any public process: a UC Regents vote that was scheduled on this issue has been cancelled, and an internal working group’s recommendations have been publicly ignored. Meanwhile, UC Health quietly amended its contracts with restrictive health systems. The amended contracts maintain the status quo and do not solve the



problem in that they permit the restrictive health systems to decide which services UC providers may perform in their hospitals.

All of UC's Health's contracting with restrictive health systems has been uncovered only through UC Health's responses to Public Record Act requests. The public and the UC community should not have to submit a Public Records Act request to find out about restrictions on essential care that impact the health outcomes of UC patients. The updated language in the contracts is still far from the solution that faculty, students, advocates, and elected officials have demanded.

Q: *Do you have examples of patients who have been denied care due to these restrictions?*

A: Yes. We have [many stories](#) of patients who have been denied care by hospitals that restrict services for non-medical reasons. In particular [Evan Minton](#), a UC alum, suffered discrimination in the denial of gender affirming care at a hospital that UC Davis currently contracts with. And as many UC providers, professors, and students shared in written and oral testimony before the UC Regents Health Services Committee, the restrictions themselves are harmful because they impact the care UC providers can offer and the training they receive.

UC Health has attempted to assure UC providers—and the public—that the UC personnel and trainees placed in restrictive facilities won't be limited in the care they can offer patients. But the experiences of other entities that have entered into contracts with restrictive health systems prove otherwise. Just last year, the [University of Maryland St. Joseph Medical Center](#) denied a hysterectomy to a transgender man citing the restrictions of the facility. The California Attorney General is also [currently investigating](#) whether a restrictive health system has violated its legal commitments by enforcing non-medical restrictions on care at a hospital in Orange County, after committing that it would not enforce them.

Q: *Are you concerned this bill limits hospital capacity?*

A: The bill does not limit hospital beds. The bill simply prevents UC from contracting to place UC providers in scenarios where the care they provide will be restricted. If patients in health systems need specialty care that only UC can provide, then UC can contract to have them transferred to UC facilities. UC can also contract to share its general expertise.

Q: *Would this bill affect partnerships with entities like Veterans Affairs and Native American Health Service Facilities?*

A: No. The bill is being amended to exclude contracts between UC Health and Veterans Affairs and Indian Health Service facilities.