


CITY COUNCIL ACTION REQUEST

Department(s):	Date:	Coordination:	Dept. Approval:
Housing	5/23/18	City Attorney's Office City Manager's Office	/s/ Jacky Morales-Ferrand
			CMO Approval:
			

SUBJECT: SB 1152 (Hernandez): Hospital patient discharge process: homeless patients.

ACTION:

1. Adopt no position for SB 1152 (Hernandez): Hospital patient discharge process: homeless patients.
2. Place this item on the June 12, 2018 City Council Agenda.

BILL SYNOPSIS:

SB 1152 would strengthen existing California law to require hospitals to specifically address the needs of homeless patients in their discharge policies and in their annual community benefits plans. The bill also requires hospitals to produce written plans on care coordination with other local agencies to serve the homeless population.

This bill would require hospitals to have a written homeless patient discharge policy and to inquire about a patient's housing status during the discharge process. It would require hospitals to discharge patients in safe and appropriate locations. The bill defines these as: (1) a patient's residence, as identified by the patient; (2) a licensed health facility; (3) a social service agency or nonprofit service provider in which the provider has agreed to accept the patient; or (4) an alternative destination instructed by the patient.

SB 1152 also requires hospitals to ensure that a homeless patient has his/her basic needs met at the time of discharge and receives communication in a culturally-sensitive manner. The discharge process must include: confirmation that the patient has been provided food, water, and weather-appropriate clothing; that hospitals not discharge patients in inclement weather; and that patients be permitted to stay in the facility until social service agencies are open and available to receive the patient. Hospitals would also be required to confirm that the patient is not disoriented, and to offer patients follow-up care. Such care includes psychiatric examination (if needed); screening for infectious diseases; vaccinations and prescriptions; and assistance with enrolling in health insurance coverage. Additionally, the bill would prohibit a patient's housing status from being used against them to prevent necessary medical care or hospital admission.

Nonprofit hospitals are already required by federal tax law to spend some of their surplus on community benefits. These are outlined in each hospital's community benefits plan, which are reported to IRS each year. On April 9, the bill was amended to require private not-for-profit hospitals to identify the needs of the homeless population in its service area and allocate resources to meet the needs of that population in its community benefits plan. The bill would require these hospitals to ensure adequate capacity of homeless patient discharge destinations such as nonprofit shelters and social service providers in that plan.

The bill is partially based on the City of Los Angeles' homeless discharge ordinance and model discharge protocol. The ordinance was developed while the City of Los Angeles pursued settlements for lawsuits against local hospitals regarding homeless "patient dumping" in 2014 and 2016.

IMPACTS TO CITY OF SAN JOSÉ:

Background

SB 1152 seeks to address the issue of “patient dumping” in which homeless patients are discharged without sufficient discharge planning or support, often to the streets or other facilities which may not have capacity to receive the patient. Discharge planning alone does not solve homelessness, but it can ensure a “warm hand off” that can lead to healthier outcomes. A patient’s ability to access a continuum of care is vitally important to preventing diseases and illnesses in this vulnerable population.

In January 2018, the *Santa Cruz Sentinel* reported that a Santa Cruz hospital discharged a homeless patient in a wheelchair wearing only a hospital gown, and dropped him off at a bus stop at 11 p.m.¹ KTVU also reported in February that a San José nursing facility discharged two residents into the streets without any notice or medical clearance from a doctor, while they were both suffering from debilitating medical conditions.² Although there are isolated reports that the problem of “patient dumping” exists, there is no existing local data that could help to determine the scale of the problem in San José.

The City has recognized patient dumping as a problem in the past and has taken steps to address the issue. The Santa Clara Valley Medical Center (VMC) established policies and procedures for discharging homeless patients in 2002. In 2008, the City secured Federal funding to create a Medical Respite Program at the Boccardo Reception Center, one of the few Medical Respite Programs statewide. Unfortunately, the 20 respite beds are often oversubscribed and not all hospitals in the community participate in the program. In response, faith organizations in the City have created a program to temporarily shelter medically-fragile patients, but the demand also exceeds the supply.

Supporters of the Bill

This bill is co-sponsored by SEIU California and the California Pan-Ethnic Health Network (CPEHN). Supporters note that existing law requires hospitals to have written discharge planning policies and processes, but they are not required to consider whether an individual being discharged would have a place to go, or family or friends to help with post-discharge needs.

According to the Steinberg Institute, an independent nonprofit organization dedicated to advancing public policy on issues of brain health, hospitals are necessary collaborative partners to bring the No Place Like Home permanent supportive housing investments made by the Legislature to life, as hospitals can act as connectors for patients to the services that they need to exit homelessness. Health Access California states that homeless individuals often cycle in and out of hospital emergency departments because they are unable to navigate or access adequate health care and social support services. Once a patient exits to the streets, it may be more difficult for a homeless patient to get connected to services again.

The California Police Chiefs Association states that this bill could potentially result in less frequent interactions with local law enforcement for the homeless population.

¹ “Late-night Santa Cruz Hospital Discharge of Nearly-naked Homeless Man Riles Community,” Jan. 12, 2018, <http://www.santacruzsentinel.com/social-affairs/20180112/late-night-santa-cruz-hospital-discharge-of-nearly-naked-homeless-man-riles-community>.

² “Lawsuit Alleges ‘Patient Dumping’ at San José Care Facility,” Feb. 26, 2018, <http://www.ktvu.com/news/lawsuit-alleges-patient-dumping-at-san-jose-care-facility>.

The Western Center on Law and Poverty (WCLP) supports this bill, but recommends including nursing homes in this bill. WCLP states that patients are being discharged inappropriately from nursing homes, particularly when the Medicare nursing home benefit runs out and the nursing home would prefer to not accept the Medi-Cal rate.

Opponents of the Bill

The California Hospital Association (CHA), the California Medical Association (CMA), and the California Chapter of the American College of Emergency Physicians (California ACEP) oppose this bill unless it is amended. CHA states that a critical component of the patient care process involves discharge planning. It adds that the overall effectiveness depends on the resources available in the community and the individual's willingness to take advantage of the support.

CHA states that it supports a written patient discharge planning policy and process, but that as currently written, this bill outlines a process that is too prescriptive. As such, it undermines the ability of the treating physician to determine when the patient is stable for discharge and the specific post-hospitalization needs that will be required upon discharge.

California ACEP states that emergency physicians will not be able to provide health care if emergency departments are also expected to deliver housing to all. It states that emergency departments are overcrowded, and the most common cause of overcrowding is the boarding of admitted patients because a bed in the hospital is not available. California ACEP opines that this bill would exacerbate an already problematic situation by prohibiting a hospital from discharging a homeless patient into inclement weather without shelter, and by requiring a hospital to house a patient until a social services agency is open and available to receive the patient.

Opponents have suggested amendments to clarify that hospitals must be allowed to discharge patients whose condition has been treated and who are medically cleared for discharge. Opponents have also requested the bill be amended so that additional services not ordered by a physician as medically necessary be delivered in a non-patient care area of the hospital.

Staff Recommendation

On March 21, 2018, the Rules Committee directed City staff to return to the committee with an analysis of SB 1152 once the County was satisfied by its language through amendments to the bill. The City does not typically engage on bills that do not directly affect the City's services. The County of Santa Clara works more directly on public health and manages the Valley Medical Center; however, it has not taken a position on this bill as of this writing. In sum, here are City staff's remaining concerns:

- 1) *The bill is too prescriptive:* SB 1152 tries to require an approach to this issue based on the City of Los Angeles, regardless of other local communities' existing processes or available resources.
- 2) *The bill is under-resourced:* SB 1152 provides no funding and instead would require nonprofit hospitals to provide their surplus funding to create sufficient hospital discharge locations for homeless patients. This funding by itself may not be enough to solve the shortage of beds. This funding is also often programmed for a variety of important local causes as decided by the hospitals that could be defunded by this bill.
- 3) *The bill doesn't sufficiently address care coordination:* Discharge planning and coordination with community partners is important to create appropriate capacity for discharge locations and to reduce instances of patient dumping. The bill requires hospitals to have a homelessness discharge plan, but does not require the same of other medical facilities such as nursing homes, or even the community partners and homeless service providers.

The City typically supports legislation that helps address homelessness. However, the City does not possess the expertise to fully understand the intended and unintended consequences of this bill on the medical community. This may be why most cities have not taken a position on the bill. For these reasons, staff recommends that the City not take a position on SB 1152 at this time.

POLICY ALIGNMENT:

This bill aligns with two Council-approved *2018 Legislative Guiding Principles and Priorities* to:

- Support legislation and secure funding resources to end homelessness.
- Providing services that promote health, economic self-sufficiency, education, and high quality of life for all San José residents.
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SUPPORTERS/OPPONENTS:

Support:

- California Pan-Ethnic Health Network (co-sponsor)
- SEIU California (co-sponsor)
- Asian Law Alliance
- California Advocates for Nursing Home Reform
- California Immigrant Policy Center
- California Partnership to End Domestic Violence
- California Police Chiefs Association
- City of Modesto, California
- Coalition on Homelessness, San Francisco
- Congress of California Seniors
- Greenlining Institute
- Having Our Say Coalition
- Health Access California
- Homeless Health Care Los Angeles
- Justice in Aging
- Law Foundation of Silicon Valley
- National Association of Social Workers, California Chapter
- National Health Law Program
- Sacramento Regional Coalition to End Homelessness
- San Francisco Senior & Disability Action
- Steinberg Institute
- Western Center on Law and Poverty (with amendments)

Opposition:

- California Chapter of the American College of Emergency Physicians (unless amended)
- California Hospital Association (unless amended)
- California Medical Association (unless amended)

STATUS OF BILL:

SB 1152 has passed the Health Committee and Appropriations Committee. As of the time of the writing of this memorandum, the Bill is in its third reading on the Senate floor with a June 1 deadline to pass out of the Senate.

FOR QUESTIONS CONTACT: Jacky Morales-Ferrand, 408-535-3851