April 11, 2023

The Honorable Maria Elena Durazo
1021 O Street, Suite 7530
Sacramento, CA 95814

RE: OPPOSE UNLESS AMENDED — SB 525 Minimum wage: health care workers.

Dear Senator Durazo:

On behalf of the Community Clinic Association of Los Angeles County (CCALAC) and our 66 nonprofit community health center (CHC) members, I am writing to express our opposition to SB 525, unless amended. CHCs in Los Angeles County operate more than 400 sites and provide high-quality, patient-centered health and behavioral health services to more than 1.8 million patients each year. The vast majority of CCALAC's members are Federally Qualified Health Centers (FQHCs) and more than 90 percent of patients are publicly insured or uninsured.

The urgent health care workforce concerns in California are real. Even with recent state investments, workforce remains a critical challenge for health care providers. CHCs would like to pay higher wages, and they agree that higher wages "are an important means of retaining an experienced workforce and attracting new workers." SB 525, as currently written, is not implementable due to the substantial financial impact and absence of a sustainable funding source to support the bill's requirements. Sixty-four percent of health center patients are covered by Medi-Cal, where FQHCs are reimbursed at fixed per-visit rates, and 22 percent are uninsured; there are no prices that can be raised to offset the costs associated with the bill. At a minimum, CHCs would require a mechanism allowing adjustment of their Medi-Cal reimbursement rates and delayed implementation to ensure sufficient time to operationalize those rate adjustments in order to meet the requirements of the bill.

PPS Challenges

As indicated, health centers primarily serve patients enrolled in publicly funded health coverage programs. Reimbursement is governed by a complex structure of state and federal laws. Federally Qualified Health Centers (FQHCs) are paid a preestablished PPS rate that encompasses reimbursement for a set of eligible services provided during a single visit. PPS is restrictive and encounter-based. FQHCs only receive PPS reimbursement for a visit if 1) the service is completed by a billable provider, 2) the service meets a prescribed definition of an allowable encounter, and 3) only one billable visit can be reimbursed for a patient in a day (with the exception of a dental visit provided the same day as a medical visit).

Current law only allows FQHCs to adjust their rates through the submission of a change in scope of service request (CSOSR) and this can only be done under strict circumstances. The circumstances, or triggering events, that allow a rate adjustment to be requested do not include wage increases. The Centers for Medicare and Medicaid Services (CMS) strictly prohibits a rate adjustment that is exclusively due to increased costs (including wages). Effectively, PPS places FQHCs on a 'fixed income' that is not easily modified to meet industry pressures or state-mandated wage increases. In order to implement the provisions of the legislation, the state would need to seek CMS approval to allow FQHCs the ability to request a rate adjustment due to a state-mandated wage increase. If CMS approval is granted, California would need to amend its Medicaid State Plan to reflect FHQCs' ability to adjust a rate on the basis of a state-mandated wage increase.

Adding an additional layer of complexity for FHQCs is the bill's requirement that the minimum wage be increased annually by the greater of 3.5 percent or a factor specified in the bill. This annual increase would create cost pressures not supported by existing federal or state law regarding annual reimbursement rate increases and would require FQHCs to request a rate adjustment every year (pending CMS approval of annual adjustments based on annual mandated wage increases). The Department of Health Care Services (DHCS) is responsible for processing and adjudicating rate adjustment requests. The infrastructure does not exist for DHCS to process a rate adjustment request from every health center site in California every year, and the state would incur substantial costs if DHCS had to do so.

Wage and Salary Compression

Notwithstanding the PPS-specific challenges faced by CHCs to implement the minimum wage provisions, there are broader financial challenges raised by SB 525's language. A minimum wage increase necessitates reevaluating all workers' wages throughout the organization in order to maintain internal equity for all staff. This means wage increases would be required across the organization. Additionally, SB 525 would require exempt employees to earn a monthly salary equivalent to no less than double the minimum wage. This would require any salaried employee to make a minimum of $104,000 per year. For many health centers in Los Angeles, the financial lift associated with these two components of the bill is even more substantial than raising the base minimum wage to $25. CHCs operate with very thin or, in some cases no, margins; resources to make adjustments of this scale do not exist. Together these provisions will likely lead to a reduction in overall staff - which will further contribute to staff burnout, and in some cases, extreme financial hardship that could result in service reductions or even closures.

Implementation Timeline

SB 525, as written, would take effect on January 1, 2024. This timeline is not feasible. CHCs cannot raise prices or access cash reserves. Absent outside resources, there would be a lengthy process for FQHCs to advance the changes needed with both CMS and DHCS in order for individual organizations to be able to even request rate adjustments due to state-mandated wage increases. Assuming the necessary approvals are obtained, DHCS would then have to process rate adjustments for each health center, which is itself a time-consuming process. The absolute earliest FQHCs could possibly implement the bill's requirements and have in place increased Medi-Cal reimbursement rates to help cover the increased cost, would be January 1, 2026, and even that might be challenging.

Summary of Amendments

While CCALAC and our members understand and appreciate the intent of the legislation, the proposed language is not implementable. The bill would need to be amended as follows:

- Include language delaying implementation until funding is appropriated by the Legislature or another funding mechanism
- Include language delaying implementation for CHCs contingent on CMS providing the necessary regulatory approval
- Include language permitting CHCs to make a change in scope of service request to increase its PPS rate to meet the requirements of this legislation
- Remove the provision requiring employees earn a monthly salary equivalent to no less than double the minimum wage in order to qualify as exempt from the payment of minimum wage and overtime laws (Section 1182.14(f))
- Remove the annual increase in the minimum wage a year after implementation (Section 1182.14(d)(1))

- Remove language capturing independent contractors (Section 1182.14(b)(1)(A)(i))

For the reasons outlined above, CCALAC is opposed, unless amended, to SB 525. We appreciate the open conversations we have had with your office thus far and look forward to continued dialog.

Sincerely,

Joanne Preece, MPH
Director of Government and External Affairs