

(2) On an annual basis, file with the Department a declaration stating the hospital's commitment to provide emergency services to victims of any terrorist act or any other disaster, within its capability, and to assist both the state and county in meeting the needs of their residents with emergency medical conditions;

(3) Either be accredited to operate an emergency department by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association, or do all of the following:

(A) Participate in a minimum of two disaster training exercises annually;

(B) Provide training and information as appropriate to the hospital's medical staff, nurses, technicians, and administrative personnel regarding the identification, management, and reporting of emergency medical conditions and communicable diseases, as well as triage procedures in cases of mass casualties; and

(C) Collaborate with state and local emergency medical services agencies and public health authorities in establishing communications procedures in preparation for and during a disaster situation.

(4) Establish or maintain an emergency and disaster management plan. This plan shall include response preparations to care for victims of terrorist attacks and other disasters. The plan shall be made available by the hospital for public inspection.

(5) Each hospital shall annually prepare and issue a written report summarizing its compliance with this section.

§ 1797.991(a) Funds deposited in the Hospital Account, together with all interest and investment income earned thereon, shall be continuously appropriated without regard to fiscal years to and administered by the Department of Health Services. The Department shall allocate the funds solely to eligible hospitals as provided by this Chapter.

(b) Quarterly, commencing June 30 following the operative date of this Chapter, the Department shall allocate to each eligible hospital a percentage of the balance of the Hospital Account equal to such hospital's funding percentage, as determined by the Department pursuant to section 1797.99i. Notwithstanding:

(1) The annual aggregate allocation to all hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan shall not exceed twenty-five million dollars (\$25,000,000) during any calendar year, and the Department shall reduce the quarterly allocation to each such hospital pro rata, if and to the extent necessary, to contain the aggregate allocation to all such hospitals within any calendar year to a maximum of twenty-five million dollars (\$25,000,000). The maximum annual aggregate allocation shall be applied by the Department in increments of six million, two hundred and fifty thousand dollars (\$6,250,000) to the first two quarterly distributions of each calendar year, but no specific portion of the limit on maximum annual aggregate distributions provided by this subsection shall apply to other quarterly distributions to such hospitals.

(2) The maximum aggregate annual allocation of twenty-five million dollars (\$25,000,000) to all hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan set forth in

subdivision (1) above shall be adjusted upward or downward annually, together with corresponding changes in any quarterly limits, commencing on January 1, 2006, by the same percentage increase or decrease in the aggregate amount deposited in the Hospital Account for the immediate prior calendar year against the aggregate amount deposited in the Hospital Account during the 2004 calendar year. Any adjustment that increases or decreases the maximum aggregate annual allocation to such hospitals shall be applied only to the then current calendar year.

(3) After making the adjustment to the maximum aggregate annual allocation to hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan provided by subdivision (2) above, the Department shall further adjust such maximum aggregate annual allocation by increasing or decreasing it by a percentage factor equal to the percentage increase or decrease in the aggregate funding percentage by all hospitals receiving a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan in 2004 against the aggregate funding percentage of all hospitals associated with the same health care service plan for the most recent calendar year.

(4) After making the adjustments to the allocation of funds as provided by subdivisions (1) through (3) above, the Department shall allocate any funds remaining in the Hospital Account to hospitals which do not receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan pro rata based upon their respective funding percentages.

(c) Prior to each allocation under subdivision (b), the actual costs of the Department (including any costs to the Department resulting from charges under section 11527 of the Government Code) for administering the provisions of this Chapter, and the percentage of costs incurred by the state Board of Equalization for its functions under Revenue and Taxation Code Section 41135 equal to the percentage of remittances it receives under such section which are deposited in the Hospital Account, shall be reimbursed from the Hospital Account. The aggregate funds withdrawn for all administrative costs under this subdivision shall not exceed one percent (1%) of the total amounts deposited in the Hospital Account (not including any fines collected under section 1197.99i(h)) during the prior quarter.

(d) An eligible hospital shall use the funds received under this section only to further the provision of hospital and medical services to emergency patients. A hospital may not utilize funds received under this chapter to compensate a physician and surgeon pursuant to a contractual agreement for medical services rendered to a patient that would cause total compensation to such physician and surgeon from all public and private sources, including the hospital, to exceed his or her billed charges.

§ 1797.99f. The Department may promulgate and adopt regulations to implement, interpret and make specific the provisions of this Chapter pursuant to the provisions of the Administrative Procedures Act set forth in Chapter 3.5 (commencing with Section 11342) of Part 1 of Division 3 of Title 2 of the Government Code. The Department shall have no authority to

promulgate quasi-legislative rules, or to adopt any rule, guideline, criterion, manual, order, standard, manual, policy, procedure or interpretation that is inconsistent with the provisions of this chapter. This section shall not be interpreted to allow the Department to adopt regulations (as defined by Government Code Section 11342.600) in contravention of Government Code Section 11340.5.

#### SECTION 8. Preservation of Existing Funding

Section 16950 of Article 3, Chapter 5, Part 4.7 of Division 9 of the Welfare and Institutions Code is amended to read:

§16950(a) Twelve and two-tenths percent, or that portion of the CHIP Account derived from the Physician Services Account in a fiscal year, of each county's allocation under Section 16941 shall be used for the support of or payment for uncompensated physician services.

(b) Up to 50 percent of the moneys provided pursuant to subdivision (a) may be used by counties to pay for new contracts, with an effective date no earlier than July 1989, with private physicians for provision of emergency, obstetric, and pediatric services in facilities which are not owned or operated by a county, and where access to those services has been severely restricted. The contracts may provide for partial or full reimbursement for physician services provided to patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government. ~~described in subdivision (f) of Section 16952, and shall be subject to subdivision (d) of Section 16955.~~

(c) ~~At least 50 percent of the moneys provided pursuant to subdivision (a) shall be transferred to the county Physician Services Account established in accordance with Section 16952 and administered in accordance with Article 3.5 (commencing with Section 16951).~~ Notwithstanding any other provision of this Code, at least 50 percent of the moneys provided pursuant to subdivision (a) shall be credited to the state Emergency and Trauma Physician Unpaid Claims Account established pursuant to Revenue and Taxation Code section 41135(g) and allocated for physician and surgeon reimbursement pursuant to Chapter 2.5 of Division 2.5 of the Health and Safety Code (commencing with section 1797.99a).

Section 16950.2 of Article 3, Chapter 5, Part 4.7 of Division 9 of the Welfare and Institutions Code is added to read:

§16950.2(a) An amount, equal to the amount appropriated and allocated pursuant to Section 76 of Chapter 230 of the Statutes of 2003 (twenty-four million eight hundred three thousand dollars (\$24,803,000)), shall be transferred and credited to the state Emergency and Trauma Physician Unpaid Claims Account, created pursuant to Revenue and Taxation Code section 41135(g), to be used only for reimbursement of uncompensated emergency services and care as provided in Chapter 2.5 of Division 2.5 (commencing with Section 1797.99a) of the