

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 30, 2009

AMENDED IN SENATE MAY 28, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 171

Introduced by Assembly Member Jones

January 29, 2009

An act to add Section 654.3 to the Business and Professions Code, and to add Section 1395.7 to the Health and Safety Code, relating to dental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Jones. Dental services: credit.

Existing law prohibits a healing arts licensee, including physicians and surgeons, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners, from referring a person for certain health care services if the licensee has a financial interest, as defined, with the person or entity that receives the referral. Existing law provides specified exemptions from this prohibition. Under existing law, a violation of the provisions governing referrals is a crime.

This bill would prohibit a dentist, or an employee or agent of that dentist, from arranging for or establishing credit extended by a 3rd party for a patient without first providing a written notice and a written treatment plan, as specified, and would prohibit that arrangement or establishment of credit with regard to a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide. The bill would prohibit a dentist, or employee or agent of a dentist, from charging treatment not yet rendered or costs

not yet incurred to an open-end credit extended by a 3rd party that is arranged for or established in the dental office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient's receipt of the treatment plan. The bill would require a dentist to refund to the lender any payment received *through credit extended by a third party, as specified*, for treatment that has not been rendered or costs that have not been incurred; ~~as specified~~; within 15 business days upon the patient's request. The bill would subject a person who willfully violates these provisions to specified civil liability. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.

This bill would require a staff-model dental health care service plan, as defined, that arranges for or establishes credit extended by a 3rd party to establish and comply with policies and procedures that ensure compliance with the bill's provisions and to establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee's request, the plan refunds to a lender any payment received *through that credit* for treatment that has not been rendered or costs that have not been incurred ~~made through that credit~~. *The bill would also require a staff-model dental health care service plan that directly extends credit or establishes a payment plan to establish and comply with policies and procedures that ensure that, within 15 business days of an enrollee's request, the plan refunds to the enrollee any payment received through that credit or payment plan for treatment that has not been rendered or costs that have not been incurred.*

Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 654.3 is added to the Business and
2 Professions Code, to read:

3 654.3. (a) A dentist, or an employee or agent of a dentist, shall
4 not charge treatment or costs to an open-end credit, that is extended
5 by a third party and that is arranged for or established in a dental
6 office, before the date upon which the treatment is rendered or
7 costs are incurred, without first providing the patient a list of the
8 treatment and services to be rendered, the estimated costs of the
9 treatment and services, and which treatment and services are being
10 charged in advance of rendering or incurring of costs, and ensuring
11 that the patient has received the treatment plan required by
12 subdivision (d).

13 (b) A dentist shall, within 15 business days of a patient's request,
14 refund to the lender any payment received *through a credit*
15 *extended by a third party that is arranged for or established in a*
16 *dental office* for treatment that has not been rendered or costs that
17 have not been incurred ~~made through a credit extended by a third~~
18 ~~party that is arranged for or established in a dental office.~~

19 (c) A dentist, or an employee or agent of that dentist, shall not
20 arrange for or establish credit extended by a third party for a patient
21 without first providing the following written notice, on one page
22 in at least 14-point type, and obtaining a signature from the patient:

23
24 "Credit for Dental Services

25 The attached application and information is for a credit card/line
26 of credit or loan to help you finance your dental treatment. You
27 should know that:

28 You are applying for a ____ credit card/line of credit or a ____
29 loan for \$ ____.

30 You do not have to apply for the credit card/line of credit or
31 loan. You may pay your dentist for dental treatment in another
32 manner.

33 This credit card/line of credit or loan is not a payment plan with
34 the dental office; it is credit with [name of company issuing the
35 credit card/line of credit or loan]. Your dentist does not work for
36 this company.

37 Before applying for this credit card/line of credit or loan, you
38 have the right to a written treatment plan from your dentist that

1 includes the anticipated treatment to be provided and the estimated
2 costs of each service.

3 If you are approved for a credit card/line of credit, your dentist
4 can only charge treatment and lab costs to that credit card/line of
5 credit when you get the treatment or the dentist incurs costs unless
6 your dentist has first given you a list of treatments that you are
7 paying for in advance and the cost for each treatment or service.

8 You have the right to receive a credit to your credit card/line of
9 credit or loan account refunded for any costs charged to the credit
10 card/line of credit or loan for treatment that has not been rendered
11 or costs that your dentist has not incurred. Your dentist must refund
12 the amount of the charges to the lender within 15 business days
13 of your request, after which the lender will credit your account.

14 Please read carefully the terms and conditions of this credit
15 card/line of credit or loan, including any promotional offers.

16 You may be required to pay interest on the amount charged to
17 the credit card/line of credit or the amount of the loan. If you miss
18 a payment or do not pay on time, you may have to pay a penalty
19 and/or a higher interest rate.

20 If you do not pay the money that you owe the company that
21 provides you with a credit card/line of credit or loan, your missed
22 payments can appear on your credit report and could hurt your
23 credit rating. You could also be sued.

24 [Patient’s Signature]”

25

26 (d) A dentist shall give a patient a written treatment plan prior
27 to arranging for or establishing credit extended by a third party.
28 The treatment plan shall include each anticipated service to be
29 provided and the estimated cost of each service. If a patient is
30 covered by a private or government dental benefit plan or dental
31 insurance, from which the dentist takes assignment of benefits,
32 the treatment plan shall indicate the patient’s private or
33 government-estimated share of cost for each service. If the dentist
34 does not take assignment of benefits from a patient’s dental benefit
35 plan or insurance, the treatment plan shall indicate that the
36 treatment may or may not be covered by a patient’s dental benefit
37 or insurance plan, and that the patient has the right to confirm
38 dental benefit or insurance information from the patient’s plan,
39 insurer, or employer before beginning treatment.

1 (e) A dentist, or an employee or agent of that dentist, shall not
2 arrange for or establish credit extended by a third party for a patient
3 with whom the dentist, or an employee or agent of that dentist,
4 communicates primarily in a language other than English that is
5 one of the Medi-Cal threshold languages, unless the written notice
6 information required by subdivision (c) is also provided in that
7 language.

8 (f) A dentist, or an employee or agent of that dentist, shall not
9 arrange for or establish credit that is extended by a third party for
10 a patient who has been administered or is under the influence of
11 general anesthesia, conscious sedation, or nitrous oxide.

12 (g) A patient who suffers any damage as a result of the use or
13 employment by any person of a method, act, or practice that
14 willfully violates this section may seek the relief provided by
15 Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4
16 of Division 3 of the Civil Code.

17 (h) The rights, remedies, and penalties established by this article
18 are cumulative, and shall not supersede the rights, remedies, or
19 penalties established under other laws.

20 (i) For purposes of this section, the following definitions shall
21 apply:

22 (1) "Dentist" includes, but is not limited to, a dental corporation,
23 as defined in Section 1800.

24 (2) "Open-end credit" means credit extended by a creditor under
25 a plan in which the creditor reasonably contemplates repeated
26 transactions, the creditor may impose a finance charge from time
27 to time on an outstanding unpaid balance, and the amount of credit
28 that may be extended to the debtor during the term of the plan (up
29 to any limit set by the creditor) is generally made available to the
30 extent that any outstanding balance is repaid.

31 (3) "Patient" includes, but is not limited to, the patient's parent
32 or other legal representative.

33 SEC. 2. Section 1395.7 is added to the Health and Safety Code,
34 to read:

35 1395.7. (a) A staff-model dental health care service plan that
36 arranges for or establishes credit extended by a third party shall
37 establish and comply with policies and procedures that ensure that
38 its dentists, employees, and agents, and employees or agents of its
39 dentists, comply with Section 654.3 of the Business and Professions
40 Code.

1 (b) A staff-model dental health care service plan that arranges
 2 for or establishes credit extended by a third party shall establish
 3 and comply with policies and procedures that ensure that, within
 4 15 business days of an enrollee’s request, the plan refunds to a
 5 lender any payment received *through that credit* for treatment that
 6 has not been rendered or costs that have not been incurred—~~made~~
 7 ~~through that credit.~~

8 (c) *A staff-model dental health care service plan that directly*
 9 *extends credit or establishes a payment plan shall, at a minimum,*
 10 *establish and comply with policies and procedures that ensure*
 11 *that, within 15 business days of an enrollee’s request, the plan*
 12 *refunds to the enrollee any payment received through that credit*
 13 *or payment plan for treatment that has not been rendered or costs*
 14 *that have not been incurred.*

15 (e)

16 (d) For purposes of this section, the following definitions shall
 17 apply:

18 (1) “Staff-model dental health care service plan” means a
 19 specialized health care service plan that contracts to provide
 20 coverage for dental care services and that retains dentists as
 21 employees to care for its enrollees.

22 (2) “Enrollee” includes, but is not limited to, an enrollee’s parent
 23 or other legal representative.

24 SEC. 3. No reimbursement is required by this act pursuant to
 25 Section 6 of Article XIII B of the California Constitution because
 26 the only costs that may be incurred by a local agency or school
 27 district will be incurred because this act creates a new crime or
 28 infraction, eliminates a crime or infraction, or changes the penalty
 29 for a crime or infraction, within the meaning of Section 17556 of
 30 the Government Code, or changes the definition of a crime within
 31 the meaning of Section 6 of Article XIII B of the California
 32 Constitution.