AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY MARCH 15, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1826

Introduced by Assembly Members Huffman and Feuer (Coauthors: Assembly Members Beall, Blumenfield, *Hill,* and Saldana)

(Coauthors: Senators *DeSaulnier,* Pavley, Price, and Yee)

February 11, 2010

An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Huffman. Health care coverage: prescriptions.

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. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan contract or a health insurance policy covering prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would require a health care service plan or health insurer covering prescription drug benefits to provide coverage for a drug that has been prescribed for the treatment of pain without first requiring the subscriber, enrollee, or insured to use another drug or product.

The bill would specify that these provisions do not apply to a health care service plan or health insurance policy purchased by the Board of Administration of the Public Employees' Retirement System.

Because a willful violation of the bill's requirements with respect to health care service plans 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:

SECTION 1. Section 1367.225 is added to the Health and Safety Code, to read:

1367.225. (a) Every health care service plan ~~that covers~~ *covering* prescription drug benefits shall provide coverage for a drug that has been prescribed by a participating licensed health care professional for the treatment of pain without first requiring the subscriber or enrollee to use an alternative prescription drug or an over-the-counter product.

(b) This section does not prohibit a health care service plan from charging a subscriber or enrollee a copayment or a deductible for prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the director and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

(c) This section shall not apply to a health care service plan purchased by the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Article 1 (commencing with Section 22750) of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code).

(d) Nothing in this section shall be construed to require coverage of prescription drugs not in a plan's drug formulary or to prohibit

generic drug substitutions as authorized by Section 4073 of the Business and Professions Code.

SEC. 2. Section 10123.197 is added to the Insurance Code, to read:

10123.197. (a) Every health insurer ~~that covers~~ *covering* prescription drug benefits shall provide coverage for a drug that has been prescribed by a licensed health care professional for the treatment of pain without first requiring the insured to use an alternative prescription drug or an over-the-counter product.

(b) This section does not prohibit a health insurance policy from charging an insured a copayment or a deductible for prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the insured pursuant to the disclosure provisions of Section 10603.

(c) This section shall not apply to a health insurance policy purchased by the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (Article 1 (commencing with Section 22750) of Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code).

(d) Nothing in this section shall be construed to require coverage of prescription drugs not in an insurer's drug formulary or to prohibit generic drug substitutions as authorized by Section 4073 of the Business and Professions Code.

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

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