

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 72**

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**Introduced by Assembly Member Eng**  
*(Coauthors: Assembly Members Dickinson, Fong, Ma, Nielsen, and Swanson)*  
*(Coauthor: Senator Huff)*

December 21, 2010

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An act to amend Section 1373.10 of the Health and Safety Code, and to amend Sections 10127.3 and 10176 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 72, as amended, Eng. Health care coverage: acupuncture.

Existing law requires a health care service plan, that is not a health care maintenance organization or is not a plan that enters exclusively into specialized health care service plan contracts, and a ~~disability health~~ insurer issuing policies on a groupwide basis, to offer acupuncture coverage under those terms and conditions as may be agreed upon by the parties, ~~with specified exceptions~~. *Existing law provides that a plan or insurer is not required to offer "that Coverage as" part of a contract or policy covering public employees. A willful violation of the laws regulating health care service plans is a crime.*

This bill would instead require every health care service plan, except a plan that enters exclusively into *contracts that are accident-only, specified disease, hospital indemnity, Medicare supplement, or specialized health care service plan contracts*, and every ~~disability health~~ insurer issuing policies on a groupwide basis, *except for policies that are accident-only, specified disease, hospital indemnity, Medicare*

*supplement, or specialized health insurance policies*, to provide acupuncture coverage under those terms and conditions as may be agreed upon by the parties.

Because a violation of this bill's requirements with respect to a health care service plan would be a crime, this bill would impose a state-mandated local program by creating a new crime.

Existing law authorizing a disability insurance policy to provide payment for acupuncture services requires that the disability insurance policy or contract expressly include acupuncture as a benefit in order for a licensed or certified acupuncturist to be paid or reimbursed under the policy for his or her services.

This bill would delete the requirement conditioning the payment and reimbursement of a certified or licensed acupuncturist, for his or her services, on the express inclusion of acupuncture as a benefit in a disability insurance policy or contract. This bill would also make technical and conforming changes.

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 1373.10 of the Health and Safety Code  
2 is amended to read:  
3 1373.10. (a) On and after January 1, 1985, every health care  
4 service plan, that is not a health maintenance organization or is  
5 not a plan that enters exclusively into specialized health care  
6 service plan contracts, as defined by subdivision (o) of Section  
7 1345, that provides coverage for hospital, medical, or surgical  
8 expenses, shall offer coverage to group contractholders for  
9 expenses incurred as a result of treatment by holders of certificates  
10 under Section 4938 of the Business and Professions Code, under  
11 terms and conditions as may be agreed upon between the health  
12 care service plan and the groupcontract holder.  
13 (b) (1) On and after January 1, 2012, *except as provided in*  
14 *paragraph (2)*, every health care service ~~plan, that is not a plan~~

1 ~~that enters exclusively into specialized health care service plan~~  
2 ~~contracts, as defined by subdivision (o) of Section 1345, plan~~ that  
3 provides coverage for hospital, medical, or surgical expenses, shall  
4 provide coverage to group contractholders for expenses incurred  
5 as a result of treatment by holders of certificates under Section  
6 4938 of the Business and Professions Code, under terms and  
7 conditions as may be agreed upon between the health care service  
8 plan and the group contractholder.

9 *(2) This subdivision shall not apply to plan contracts that are*  
10 *accident-only, specified disease, hospital indemnity, Medicare*  
11 *supplement, or specialized health care service plan contracts, as*  
12 *defined in subdivision (o) of Section 1345.*

13 SEC. 2. Section 10127.3 of the Insurance Code is amended to  
14 read:

15 10127.3. (a) On and after January 1, 1985, every insurer  
16 issuing group disability insurance that covers hospital, medical,  
17 or surgical expenses shall offer coverage for expenses incurred as  
18 a result of treatment by holders of certificates under Section 4938  
19 of the Business and Professions Code, under terms and conditions  
20 as may be agreed upon between the group policyholder and the  
21 insurer.

22 (b) *(1) On and after January 1, 2012, except as provided in*  
23 *paragraph (2), every insurer issuing group ~~disability insurance~~*  
24 *that covers hospital, medical, or surgical expenses health insurance*  
25 shall provide coverage for expenses incurred as a result of treatment  
26 by holders of certificates under Section 4938 of the Business and  
27 Professions Code, under terms and conditions as may be agreed  
28 upon between the group policyholder and the insurer.

29 *(2) This subdivision shall not apply to insurance policies that*  
30 *are accident-only, specified disease, hospital indemnity, Medicare*  
31 *supplement insurance, or specialized health insurance policies,*  
32 *as defined in subdivision (c) of Section 106.*

33 SEC. 3. Section 10176 of the Insurance Code is amended to  
34 read:

35 10176. In disability insurance, the policy may provide for  
36 payment of medical, surgical, chiropractic, physical therapy, speech  
37 pathology, audiology, acupuncture, professional mental health,  
38 dental, hospital, or optometric expenses upon a reimbursement  
39 basis, or for the exclusion of any of those services, and provision  
40 may be made therein for payment of all or a portion of the amount

1 of charge for these services without requiring that the insured first  
2 pay the expenses. The policy shall not prohibit the insured from  
3 selecting any psychologist or other person who is the holder of a  
4 certificate or license under Section 1000, 1634, 2050, 2472, 2553,  
5 2630, 2948, 3055, or 4938 of the Business and Professions Code,  
6 to perform the particular services covered under the terms of the  
7 policy, the certificate holder or licensee being expressly authorized  
8 by law to perform those services.

9 Nor shall the policy prohibit the insured, upon referral by a  
10 physician and surgeon licensed under Section 2050 of the Business  
11 and Professions Code, from selecting any licensed clinical social  
12 worker who is the holder of a license issued under Section 4996  
13 of the Business and Professions Code or any occupational therapist  
14 as specified in Section 2570.2 of the Business and Professions  
15 Code, or any marriage and family therapist who is the holder of a  
16 license under Section 4980.50 of the Business and Professions  
17 Code, to perform the particular services covered under the terms  
18 of the policy, or from selecting any speech-language pathologist  
19 or audiologist licensed under Section 2532 of the Business and  
20 Professions Code or any registered nurse licensed pursuant to  
21 Chapter 6 (commencing with Section 2700) of Division 2 of the  
22 Business and Professions Code, who possesses a master's degree  
23 in psychiatric-mental health nursing and is listed as a  
24 psychiatric-mental health nurse by the Board of Registered Nursing  
25 or any advanced practice registered nurse certified as a clinical  
26 nurse specialist pursuant to Article 9 (commencing with Section  
27 2838) of Chapter 6 of Division 2 of the Business and Professions  
28 Code who participates in expert clinical practice in the specialty  
29 of psychiatric-mental health nursing, or any respiratory care  
30 practitioner certified pursuant to Chapter 8.3 (commencing with  
31 Section 3700) of Division 2 of the Business and Professions Code  
32 to perform services deemed necessary by the referring physician,  
33 that certificate holder, licensee or otherwise regulated person, being  
34 expressly authorized by law to perform the services.

35 Nothing in this section shall be construed to allow any certificate  
36 holder or licensee enumerated in this section to perform  
37 professional mental health services beyond his or her field or fields  
38 of competence as established by his or her education, training, and  
39 experience. For the purposes of this section, "marriage and family  
40 therapist" means a licensed marriage and family therapist who has

1 received specific instruction in assessment, diagnosis, prognosis,  
2 and counseling, and psychotherapeutic treatment of premarital,  
3 marriage, family, and child relationship dysfunctions that is  
4 equivalent to the instruction required for licensure on January 1,  
5 1981.

6 An individual disability insurance policy, which is issued,  
7 renewed, or amended on or after January 1, 1988, and which  
8 includes mental health services coverage may not include a lifetime  
9 waiver for that coverage with respect to any applicant. The lifetime  
10 waiver of coverage provision shall be deemed unenforceable.

11 SEC. 4. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.

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