

AMENDED IN ASSEMBLY APRIL 12, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 778

Introduced by Assembly Member Atkins

February 17, 2011

An act to add Sections ~~2553.7 and 2553.8 to the Business and Professions~~ *1395.3 and 1395.4 to the Health and Safety Code*, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 778, as amended, Atkins. Health care service plans: vision care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the 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 that health care service plans shall not be deemed to be engaged in the practice of a profession, and may employ, or contract with, any licensed health care professional to deliver professional services, and may directly own, and may directly operate through its professional employees or contracted licensed professionals, offices and subsidiary corporations. Existing law provides that those professionals may not own or control offices or branch offices unless otherwise expressly authorized.

~~Existing law provides for the licensure and regulation of dispensing opticians by the Medical Board of California. Existing law provides that a violation of those provisions is a misdemeanor.~~

This bill would authorize a *registered* dispensing optician, an optical company, a manufacturer or distributor of optical goods, or a

nonoptometric corporation to own a health care service plan that provides vision care services, share profits with the health care service plan, contract for specified business services with the health care service plan, and jointly advertise vision care services with the health care service plan. The bill would prohibit those persons or entities from engaging in conduct designed to influence or interfere with the medical decisions of an optometrist, as specified. Because a *willful* violation of that provision would be a crime *under the Knox-Keene Act*, 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. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) Health care service plans, including specialized health care
- 4 service plans, are regulated by the Department of Managed Health
- 5 Care.
- 6 (b) To ensure that quality care and coverage are provided to
- 7 enrollees, a health care service plan, including a specialized health
- 8 care service plan, is required to do all of the following:
- 9 (1) Establish a department-approved quality assurance program
- 10 to ensure that enrollees are continuously provided the appropriate
- 11 level of services covered by the *health care service* plan.
- 12 (2) Ensure that a separation of fiscal and administrative
- 13 management from medical services exists within the *health care*
- 14 *service* plan.
- 15 (3) Periodically submit information to the department to
- 16 demonstrate delivery of quality care, accessibility of services to
- 17 enrollees, and prompt resolution of complaints.
- 18 (4) Establish procedures meeting specified requirements for
- 19 reviewing the utilization of services and facilities.
- 20 (5) Participate in comprehensive medical and financial audits
- 21 conducted by the department.

1 (c) Existing law prohibits an optometrist from engaging in
2 certain business relationships with a registered optical dispenser.

3 (d) Existing law allows a health care service plan to hire and
4 contract with licensed professionals and to engage in a business
5 relationship with any entity. However, existing law is unclear about
6 the relationships between health care service plans that provide
7 vision services and optical companies.

8 (e) Providing statutory clarity regarding permissible business
9 relationships between a health care service plan providing vision
10 services and optical companies will provide certainty and allow
11 regulating entities to ensure that *health care service* plans are
12 engaged in appropriate business relationships.

13 ~~SEC. 2.—Section 2553.7 is added to the Business and Professions~~
14 ~~Code, to read:~~

15 ~~2553.7.~~

16 *SEC. 2. Section 1395.3 is added to the Health and Safety Code,*
17 *to read:*

18 *1395.3. Notwithstanding any other provision of law, a*
19 *registered dispensing optician, an optical company, a manufacturer*
20 *or distributor of optical goods, or a nonoptometric corporation*
21 *may do all of the following:*

22 (a) Own a health care service plan that provides vision care
23 services and share its profits.

24 (b) Contract for business services with, lease office space or
25 equipment to or from, or share office space with, a health care
26 service plan that provides vision care services.

27 (c) Jointly advertise vision care services with a health care
28 service plan that provides vision care services.

29 ~~SEC. 3.—Section 2553.8 is added to the Business and Professions~~
30 ~~Code, to read:~~

31 ~~2553.8.~~

32 *SEC. 3. Section 1395.4 is added to the Health and Safety Code,*
33 *to read:*

34 *1395.4. (a) A registered dispensing optician, an optical*
35 *company, a manufacturer or distributor of optical goods, or a*
36 *nonoptometric corporation shall not engage in conduct designed*
37 *to influence or interfere with the medical decisions of an*
38 *optometrist employed by, or who has contracted with, a specialized*
39 *vision care service plan for fiscal or administrative reasons.*

1 (b) Pursuant to subdivision (g) of Section 1367 of the Health
2 and Safety Code, the medical decisions of an optometrist who is
3 employed by, or who has contracted with, a specialized vision care
4 service plan shall be unhindered by fiscal and administrative
5 management.

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