

Senate Bill No. 751

CHAPTER 244

An act to add Section 1367.49 to the Health and Safety Code, and to add Section 10133.64 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 6, 2011. Filed with
Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 751, Gaines. Health care coverage: provider contracts.

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. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a contract between a plan or insurer and a health care provider from containing certain terms.

This bill would prohibit a contract by or on behalf of a plan or insurer and a licensed hospital, as defined, or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to subscribers and enrollees of the plan or policyholders and insureds of the insurer from containing a provision that restricts the ability of the plan or insurer to furnish information to subscribers or enrollees of the plan or policyholders or insureds of the insurer concerning the cost range of procedures at the hospital or facility or the quality of services performed by the hospital or facility. The bill would make a contractual provision inconsistent with this requirement void and unenforceable. The bill would require a plan or insurer to provide a hospital or facility the opportunity to review the methodology and data used before cost or quality information is provided to subscribers or enrollees of the plan or to policyholders or insureds of the insurer, as specified. The bill would also establish requirements applicable to information displayed on an Internet Web site pursuant to these provisions by, or on behalf of, a plan or insurer.

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

SECTION 1. It is the intent of the Legislature to ensure that subscribers and enrollees of a health care service plan, and policyholders and insureds of a health insurer, can make informed decisions about their health care choices. To fulfill this goal, any information furnished pursuant to this act to subscribers or enrollees of a health care service plan, or to policyholders or insureds of a health insurer, concerning the cost range of procedures or

quality of services should use state or nationally recognized quality measures where available, connect cost range of procedures to relevant quality data, and inform subscribers and enrollees and policyholders and insureds of their range of potential cost-sharing liabilities when feasible.

SEC. 2. Section 1367.49 is added to the Health and Safety Code, to read:

1367.49. (a) A contract issued, amended, renewed, or delivered on or after January 1, 2012, by or on behalf of a health care service plan and a licensed hospital or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to subscribers and enrollees of the plan shall not contain any provision that restricts the ability of the health care service plan to furnish information to subscribers or enrollees of the plan concerning the cost range of procedures at the hospital or facility or the quality of services performed by the hospital or facility.

(b) Any contractual provision inconsistent with this section shall be void and unenforceable.

(c) A health care service plan shall provide the hospital or facility an advance opportunity of at least 20 days to review the methodology and data developed and compiled by the health care service plan, and used pursuant to subdivision (a), before cost or quality information is provided to subscribers or enrollees, including material revisions or the addition of new information. At the time the health care service plan provides a hospital or facility with the opportunity to review the methodology and data, it shall also notify the hospital or facility in writing of their opportunity to provide an Internet Web site link pursuant to subdivision (f).

(d) If the information proposed to be furnished to enrollees and subscribers on the quality of services performed by a hospital or facility is data that the plan has developed and compiled, the plan shall utilize appropriate risk adjustment factors to account for different characteristics of the population, such as case mix, severity of patient's condition, comorbidities, outlier episodes, and other factors to account for differences in the use of health care resources among hospitals and facilities.

(e) Any Internet Web site owned or controlled by a health care service plan, or operated by another person or entity under contract with or on behalf of a health care service plan, that displays the information developed and compiled by the health care service plan as referenced by this section shall prominently post the following statement:

“Individual hospitals may disagree with the methodology used to define the cost ranges, the cost data, or quality measures. Many factors may influence cost or quality, including, but not limited to, the cost of uninsured and charity care, the type and severity of procedures, the case mix of a hospital, special services such as trauma centers, burn units, medical and other educational programs, research, transplant services, technology, payer mix, and other factors affecting individual hospitals.”

A health care service plan and a hospital shall not be precluded from mutually agreeing in writing to an alternative method of conveying this statement.

(f) If a hospital or facility chooses to provide an Internet Web site link where a response to the health care service plan's posting may be found, it shall do so in a timely manner in order to satisfy the requirements of this section. If a hospital or facility chooses to provide a response, a plan shall post, in an easily identified manner, a prominent link to the hospital's or facility's Internet Web site where a response to the plan's posting may be found. A health care service plan and a hospital shall not be precluded from mutually agreeing in writing to an alternative method to convey a hospital's response.

(g) For the purposes of this section, "licensed hospital" means those hospitals as defined in subdivisions (a), (b), and (f) of Section 1250.

(h) Section 1390 shall not apply for purposes of this section.

SEC. 3. Section 10133.64 is added to the Insurance Code, to read:

10133.64. (a) A contract issued, amended, renewed, or delivered on or after January 1, 2012, by or on behalf of a health insurer and a licensed hospital or any other licensed health care facility owned by a licensed hospital to provide inpatient hospital services or ambulatory care services to policyholders and insureds of the insurer shall not contain any provision that restricts the ability of the health insurer to furnish information to policyholders or insureds concerning the cost range of procedures at the hospital or facility or the quality of services provided by the hospital or facility.

(b) Any contractual provision inconsistent with this section shall be void and unenforceable.

(c) A health insurer shall provide the hospital or facility an advance opportunity of at least 20 days to review the methodology and data developed and compiled by the health insurer, and used pursuant to subdivision (a), before cost or quality information is provided to policyholders or insureds, including material revisions or the addition of new information. At the time the health insurer provides a hospital or facility with the opportunity to review the methodology and data, it shall also notify the hospital or facility in writing of their opportunity to provide an Internet Web site link pursuant to subdivision (f).

(d) If the information proposed to be furnished to policyholders and insureds on the quality of services performed by a hospital or facility is data that the insurer has developed and compiled, the insurer shall utilize appropriate risk adjustment factors to account for different characteristics of the population, such as case mix, severity of patient's condition, comorbidities, outlier episodes, and other factors to account for differences in the use of health care resources among hospitals and facilities.

(e) Any Internet Web site owned or controlled by a health insurer, or operated by another person or entity under contract with or on behalf of a health insurer, that displays the information developed and compiled by the

health insurer as referenced by this section shall prominently post the following statement:

“Individual hospitals may disagree with the methodology used to define the cost ranges, the cost data, or quality measures. Many factors may influence cost or quality, including, but not limited to, the cost of uninsured and charity care, the type and severity of procedures, the case mix of a hospital, special services such as trauma centers, burn units, medical and other educational programs, research, transplant services, technology, payer mix, and other factors affecting individual hospitals.”

A health insurer and a hospital shall not be precluded from mutually agreeing in writing to an alternative method of conveying this statement.

(f) If a hospital or facility chooses to provide an Internet Web site link where a response to the health insurer’s posting may be found, it shall do so in a timely manner in order to satisfy the requirements of this section. If a hospital or facility chooses to provide a response, an insurer shall post, in an easily identified manner, a prominent link to the hospital’s or facility’s Internet Web site where a response to the health insurer’s posting may be found. A health insurer and a hospital shall not be precluded from mutually agreeing in writing to an alternative method to convey a hospital’s response.

(g) For the purposes of this section, “licensed hospital” means those hospitals as defined in subdivisions (a), (b), and (f) of Section 1250 of the Health and Safety Code.