

Introduced by Senator LenoFebruary 18, 2011

An act to add Division 114 (commencing with Section 140000) to the Health and Safety Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 810, as introduced, Leno. Single-payer health care coverage.

Existing law does not provide a system of universal health care coverage for California residents. Existing law provides for the creation of various programs to provide health care services to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program administered by the Managed Risk Medical Insurance Board, and the Medi-Cal program administered by the State Department of Health Care Services. Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and health insurers by the Department of Insurance. Existing law establishes the California Health Benefit Exchange to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January, 1, 2014.

This bill would establish the California Healthcare System to be administered by the newly created California Healthcare Agency under the control of a Healthcare Commissioner appointed by the Governor and subject to confirmation by the Senate. The bill would make all California residents eligible for specified health care benefits under the California Healthcare System, which would, on a single-payer basis, negotiate for or set fees for health care services provided through the system and pay claims for those services. The bill would require the commissioner to seek all necessary waivers, exemptions, agreements,

or legislation to allow various existing federal, state, and local health care payments to be paid to the California Healthcare System, which would then assume responsibility for all benefits and services previously paid for with those funds.

The bill would create the Healthcare Policy Board to establish policy on medical issues and various other matters relating to the system. The bill would create the Office of Patient Advocacy within the agency to represent the interests of health care consumers relative to the system. The bill would create within the agency the Office of Health Planning to plan for the health care needs of the population, and the Office of Health Care Quality, headed by a chief medical officer, to support the delivery of high quality care and promote provider and patient satisfaction. The bill would create the Office of Inspector General for the California Healthcare System within the Attorney General's office, which would have various oversight powers. The bill would prohibit health care service plan contracts or health insurance policies from being issued for services covered by the California Healthcare System, subject to appropriation by the Legislature, and would authorize the collection of penalty moneys for deposit into the fund. The bill would create the Healthcare Fund and the Payments Board to administer the finances of the California Healthcare System. The bill would create the California Healthcare Premium Commission (Premium Commission) to determine the cost of the California Healthcare System and to develop a premium structure for the system that complies with specified standards. The bill would require the Premium Commission to recommend a premium structure to the Governor and the Legislature on or before January 1, 2014, and to make a draft recommendation to the Governor, the Legislature, and the public 90 days before submitting its final premium structure recommendation. The bill would specify that only its provisions relating to the Premium Commission would become operative on January 1, 2012, with its remaining provisions becoming operative on the date the Secretary of California Health and Human Services notifies the Legislature, as specified, that sufficient funding exists to implement the California Healthcare System or the date the secretary receives the necessary federal waiver under the federal Patient Protection and Affordable Care Act, whichever is later.

The bill would extend the application of certain insurance fraud laws to providers of services and products under the system, thereby imposing a state-mandated local program by revising the definition of a crime. The bill would enact other related provisions relative to budgeting,

regional entities, federal preemption, subrogation, collective bargaining agreements, compensation of health care providers, conflict of interest, patient grievances, and independent medical review.

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. Division 114 (commencing with Section 140000)
2 is added to the Health and Safety Code, to read:

3
4 DIVISION 114. CALIFORNIA UNIVERSAL HEALTHCARE
5 ACT

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 140000. There is hereby established in state government the
10 California Healthcare System, which shall be administered by the
11 California Healthcare Agency, an independent agency under the
12 control of the Healthcare Commissioner.

13 140000.6. No health care service plan contract or health
14 insurance policy, except for the California Healthcare System plan,
15 may be sold in California for services provided by the system.

16 140001. This division shall be known and may be cited as the
17 California Universal Healthcare Act.

18 140002. This division shall be liberally construed to accomplish
19 its purposes.

20 140003. The California Healthcare Agency is hereby created
21 and designated as the single state agency with full power to
22 supervise every phase of the administration of the California
23 Healthcare System and to receive grants-in-aid made by the United
24 States government, by the state, or by other sources in order to
25 secure full compliance with the applicable provisions of state and
26 federal law.

1 140004. The California Healthcare Agency shall be comprised
2 of the following entities:

- 3 (a) The Healthcare Policy Board.
- 4 (b) The Office of Patient Advocacy.
- 5 (c) The Office of Health Planning.
- 6 (d) The Office of Health Care Quality.
- 7 (e) The Healthcare Fund.
- 8 (f) The Public Advisory Committee.
- 9 (g) The Payments Board.
- 10 (h) Partnerships for Health.

11 140005. The Legislature finds and declares all of the following:

12 (a) An estimated 6.6 million Californians were uninsured in
13 2006, representing over 20 percent of the nonelderly population.

14 (b) In California, 763,000 children are currently uninsured, and
15 an additional 300,000 are significantly at risk for losing their
16 coverage.

17 (c) Health care spending has continuously grown two to three
18 times faster than California's economy, while health insurance
19 premiums have grown significantly faster than overall health care
20 spending.

21 (d) Since 2000, health care costs have outpaced increases in
22 wages by a ratio of four to one.

23 (e) One-third of California's state budget is devoted to health
24 care, including direct public programs as well as employee health
25 benefits. The imbalanced growth in health spending relative to
26 economic growth which drives public revenues greatly hinders
27 California's ability to maintain a balanced budget.

28 (f) On average, the United States spends more than twice as
29 much as all other industrial nations on health care, both per person
30 and as a percentage of its gross domestic product. Additionally,
31 the rate of health care inflation significantly outpaces other
32 industrial nations.

33 (g) Despite this high spending, United States healthcare
34 outcomes consistently rank at the bottom of all industrial nations
35 and the United States Institute of Medicine has declared an
36 epidemic of substandard health-care throughout the nation.

37 (h) Instead of effectively containing costs, costs have been
38 increasingly shifted to working Californians in the form of a
39 continual decline in employer-offered coverage, dramatic increases
40 in premiums, copayments, and deductibles, declining clinical

1 quality, overall reductions in benefits, and inappropriate utilization
2 review procedures that deny patients access to needed care.

3 (i) As a result, one-half of all bankruptcies in the United States
4 now relate to medical costs, though three-fourths of bankrupted
5 families had health care coverage at the time of sustaining the
6 injury or illness.

7 (j) More than one-half of all Americans report forgoing
8 recommended health care because of the cost, and Americans are
9 more likely to report difficulty seeing a doctor on the day they
10 sought.

11 (k) Health plans and insurers compete to construct patient pools
12 consisting of the healthiest segments of the population, leaving
13 higher risk patients to public programs or uninsured.

14 (l) Segregating patients into groups based on actuarial
15 assessments of their medical risk guarantees the continuation of
16 entrenched health care disparities in access and quality, and drives
17 health care resources toward healthier populations who least need
18 it for whom more care often does more harm than good.

19 (m) The Institute of Medicine estimates that 18,000 people die
20 annually in the United States because of lack of access to care and
21 that 30,000 die from overtreatment.

22 (n) The RAND Institute estimates that one-third of clinical
23 procedures performed are of questionable clinical benefit.

24 (o) Quantitative analyses performed by the Congressional
25 Budget Office, the General Accounting Office, the Lewin Group,
26 and the Legislative Analyst's Office indicate that under a
27 single-payer health care coverage system, the amount currently
28 spent for health care is adequate to finance comprehensive high
29 quality health care coverage for every resident of the state.

30 (p) According to these reports and numerous other studies, by
31 simplifying administration, achieving bulk purchase discounts on
32 pharmaceuticals, reducing the use of emergency facilities for
33 primary care, and better managing health care resources, California
34 could divert billions of dollars toward direct health care.

35 (q) Enactment of a single-payer universal health care system
36 would create 2.6 million jobs in the United States, while infusing
37 three hundred seventeen billion dollars (\$317,000,000,000) in new
38 business and public revenues and one hundred billion dollars
39 (\$100,000,000,000) in wages into the United States economy

1 according to a recent study by the Institute for Health and
2 Socioeconomic Policy.

3 (r) Single-payer health care, exhibited by Medicare and the
4 Veterans Administration, along with virtually every other industrial
5 nation in the world, is a well tested model that has been proven to
6 contain the growth in health care spending while promoting quality
7 improvements and maintaining comprehensive coverage.

8 140005.1. (a) It is the intent of the Legislature to establish a
9 system of universal health care coverage in this state that provides
10 all residents with comprehensive health care benefits, guarantees
11 a single standard of care for all residents, stabilizes the growth in
12 health care spending, and improves the quality of health care for
13 all residents.

14 (b) It is the intent of the Legislature that, in order to ensure an
15 adequate supply and distribution of direct care providers in the
16 state, a just and fair return for providers electing to be compensated
17 by the health care system, and a uniform system of payments, the
18 state shall actively supervise and regulate a system of payments
19 whereby groups of fee-for-service physicians are authorized to
20 select representatives of their specialties to negotiate with the
21 health care system, pursuant to Section 140209. Nothing in this
22 division shall be construed to allow collective action against the
23 health care system.

24 140006. This division shall have all of the following purposes:

25 (a) To provide affordable and comprehensive health care
26 coverage with a single standard of care for all California residents.

27 (b) To control health care costs and the growth of health care
28 spending, subject to the obligation described in subdivision (a).

29 (c) To achieve measurable improvement in the quality of care
30 and the efficiency of care delivery.

31 (d) To prevent disease and disability and to improve or maintain
32 health and functionality.

33 (e) To increase health care provider, consumer, employee, and
34 employer satisfaction with the health care system.

35 (f) To implement policies that strengthen and improve culturally
36 and linguistically sensitive care and sensitive care provided to
37 disabled persons.

38 (g) To develop an integrated population-based health care
39 database to support health care planning.

1 (h) To provide information and care in an appropriate and
2 accessible format.

3 140007. As used in this division, the following terms have the
4 following meanings:

5 (a) “Agency” means the California Healthcare Agency.

6 (b) “Clinic” means an organized outpatient health facility that
7 provides direct medical, surgical, dental, optometric, or podiatric
8 advice, services, or treatment to patients who remain less than 24
9 hours, and that may also provide diagnostic or therapeutic services
10 to patients in the home as an alternative to care provided at the
11 clinic facility, and includes those facilities defined under Sections
12 1200 and 1200.1.

13 (c) “Commissioner” means the Healthcare Commissioner.

14 (d) “Direct care provider” means any licensed health care
15 professional that provides health care services through direct
16 contact with a patient, either in person or using approved
17 telemedicine modalities as identified in Section 2290.5 of the
18 Business and Professions Code.

19 (e) “Essential community provider” means a health facility that
20 has served as part of the state’s health care safety net for
21 low-income and traditionally underserved populations in California
22 and that is one of the following:

23 (1) A “community clinic” as defined under subparagraph (A)
24 of paragraph (1) of subdivision (a) of Section 1204.

25 (2) A “free clinic” as defined under subparagraph (B) of
26 paragraph (1) of subdivision (a) of Section 1204.

27 (3) A “federally qualified health center” as defined under Section
28 1395x (aa)(4) or 1396d (l)(2)(B) of Title 42 of the United States
29 Code.

30 (4) A “rural health clinic” as defined under Section 1395x (aa)(2)
31 or 1396d (l)(1) of Title 42 of the United States Code.

32 (5) Any clinic conducted, maintained, or operated by a federally
33 recognized Indian tribe or tribal organization, as defined in Section
34 1603 of Title 25 of the United States Code.

35 (6) Any clinic exempt from licensure under subdivision (h) of
36 Section 1206.

37 (f) “Health care provider” means any professional person,
38 medical group, independent practice association, organization,
39 health facility, or other person or institution licensed or authorized
40 by the state to deliver or furnish health care services.

1 (g) “Health facility” means any facility, place, or building that
2 is organized, maintained, and operated for the diagnosis, care,
3 prevention, and treatment of human illness, physical or mental,
4 including convalescence and rehabilitation and including care
5 during and after pregnancy, or for any one or more of these
6 purposes, for one or more persons, and includes those facilities
7 defined under subdivision (d) of Section 15432 of the Government
8 Code.

9 (h) “Hospital” means all health facilities to which persons may
10 be admitted for a 24-hour stay or longer, as defined in Section
11 1250, with the exception of nursing, skilled nursing, intermediate
12 care, and congregate living health facilities.

13 (i) “Integrated health care delivery system” means a provider
14 organization that meets both of the following criteria:

15 (1) Is fully integrated operationally and clinically to provide a
16 broad range of health care services, including preventative care,
17 prenatal and well-baby care, immunizations, screening diagnostics,
18 emergency services, hospital and medical services, surgical
19 services, and ancillary services.

20 (2) Is compensated using capitation or facility budgets, except
21 for copayments, for the provision of health care services.

22 (j) “Large employer” means a person, firm, proprietary or
23 nonprofit corporation, partnership, public agency, or association
24 that is actively engaged in business or service, that, on at least 50
25 percent of its working days during the preceding calendar year
26 employed at least 50 employees, or, if the employer was not in
27 business during any part of the preceding calendar year, employed
28 at least 50 employees on at least 50 percent of its working days
29 during the preceding calendar quarter.

30 (k) “Premium Commission” means the California Healthcare
31 Premium Commission.

32 (l) “Primary care provider” means a direct care provider that is
33 a family physician, internist, general practitioner, pediatrician, an
34 obstetrician-gynecologist, or a family nurse practitioner or
35 physician assistant practicing under supervision as defined in the
36 California codes, or essential community providers who employ
37 primary care providers.

38 (m) “Small employer” means a person, firm, proprietary or
39 nonprofit corporation, partnership, public agency, or association
40 that is actively engaged in business or service and that, on at least

1 50 percent of its working days during the preceding calendar year
2 employed at least two but no more than 49 employees, or, if the
3 employer was not in business during any part of the preceding
4 calendar year, employed at least two but no more than 49 eligible
5 employees on at least 50 percent of its working days during the
6 preceding calendar quarter.

7 (n) “System” means the California Healthcare System.

8 140008. The definitions contained in Section 140007 shall
9 govern the construction of this division, unless the context requires
10 otherwise.

11

12 CHAPTER 2. GOVERNANCE

13

14 140100. (a) (1) The commissioner shall be appointed by the
15 Governor on or before July 1 of the fiscal year following the date
16 that this section becomes operative pursuant to Section 140700,
17 subject to confirmation by the Senate. If in session, the Senate
18 shall act on the appointment within 30 days of the appointment
19 date. If the Senate does not act on the appointment within that
20 period, the nominee shall be deemed confirmed and may take
21 office. If the Senate is not in session at the time of the appointment,
22 the Senate shall act on the appointment within 30 days of the
23 commencement of the next legislative session. If the Senate does
24 not act on the appointment within that period, the appointee shall
25 be deemed confirmed and may take office.

26 (2) If the Senate by a vote fails to confirm the nominee for
27 commissioner, the Governor shall make a new appointment within
28 30 days of the Senate’s vote. The appointment is subject to
29 confirmation by the Senate, and the procedures described in
30 paragraph (1) shall apply to the confirmation process.

31 (b) The commissioner is exempt from the State Civil Service
32 Act (Part 2 (commencing with Section 18500) of Division 5 of
33 Title 2 of the Government Code).

34 (c) The commissioner may not be a state legislator or a Member
35 of the United States Congress while holding the position of
36 commissioner.

37 (d) The commissioner shall not have been employed in any
38 capacity by a for-profit insurance, pharmaceutical, or medical
39 equipment company that sells products to the system for a period
40 of two years prior to appointment as commissioner.

1 (e) For two years after completing service in the system, the
2 commissioner may not receive payments of any kind from, or be
3 employed in any capacity or act as a paid consultant to, a for-profit
4 insurance, pharmaceutical, or medical equipment company that
5 sells products to the system.

6 (f) The compensation and benefits of the commissioner shall
7 be established by the California Citizens Compensation
8 Commission in accordance with Section 8 of Article III of the
9 California Constitution.

10 (g) The commissioner shall be subject to Title 9 (commencing
11 with Section 81000) of the Government Code.

12 140101. (a) The commissioner shall be the chief officer of the
13 agency and shall administer all aspects of the agency.

14 (b) The commissioner shall be responsible for the performance
15 of all duties, the exercise of all power and jurisdiction, and the
16 assumption and discharge of all responsibilities vested by law in
17 the agency. The commissioner shall perform all duties imposed
18 upon him or her by this division and other laws related to health
19 care, and shall enforce the execution of any law related to the
20 system, and shall enforce the execution of those provisions and
21 laws to promote their underlying aims and purposes. These broad
22 powers shall include, but are not limited to, the power to establish
23 the system's budget and to set rates, to establish the system's goals,
24 standards, and priorities, to hire, terminate, and fix the
25 compensation of agency personnel, to make allocations and
26 reallocations to the health planning regions, and to promulgate
27 generally binding regulations concerning any and all matters related
28 to the implementation of this division and its purposes.

29 (c) The commissioner shall appoint a deputy commissioner, the
30 Director of the Healthcare Fund, the patient advocate of the Office
31 of Patient Advocacy, the chief medical officer, the Director of the
32 Payments Board, the Director of the Office of Health Planning,
33 the Director of the Partnerships for Health, the regional health
34 planning directors, the chief enforcement counsel, and legal counsel
35 in any action brought by or against the commissioner under or
36 pursuant to any provision of any law under the commissioner's
37 jurisdiction, or in which the commissioner joins or intervenes as
38 to a matter within the commissioner's jurisdiction, as a friend of
39 the court or otherwise, and stenographic reporters to take and
40 transcribe the testimony in any formal hearing or investigation

1 before the commissioner or before a person authorized by the
2 commissioner.

3 (d) The commissioner, in accordance with the State Civil Service
4 Act (Part 2 (commencing with Section 18500) of Division 5 of
5 Title 2 of the Government Code), may appoint and fix the
6 compensation of clerical, inspection, investigation, evaluation, and
7 auditing personnel as may be necessary to implement this division.

8 (e) The personnel of the agency shall perform duties as assigned
9 to them by the commissioner. The commissioner shall designate
10 certain employees by rule or order that are to take and subscribe
11 to the constitutional oath within 15 days after their appointments,
12 and to file that oath with the Secretary of State. The commissioner
13 shall also designate those employees that are to be subject to Title
14 9 (commencing with Section 81000) of the Government Code.

15 (f) The commissioner shall adopt a seal bearing the inscription:
16 “Commissioner, California Healthcare Agency, State of
17 California.” The seal shall be affixed to, or imprinted on, all orders
18 and certificates issued by him or her and other instruments as he
19 or she directs. All courts shall take notice of this seal.

20 (g) The administration of the agency shall be supported from
21 the Healthcare Fund created pursuant to Section 140200.

22 (h) The commissioner, as a general rule, shall publish or make
23 available for public inspection any information filed with or
24 obtained by the agency, unless the commissioner finds that this
25 availability or publication is contrary to law. No provision of this
26 division authorizes the commissioner or any of the commissioner’s
27 assistants, clerks, or deputies to disclose any information withheld
28 from public inspection except among themselves or when necessary
29 or appropriate in a proceeding or investigation under this division
30 or to other federal or state regulatory agencies. No provision of
31 this division either creates or derogates from any privilege that
32 exists at common law or otherwise when documentary or other
33 evidence is sought under a subpoena directed to the commissioner
34 or any of his or her assistants, clerks, and deputies.

35 (i) It is unlawful for the commissioner or any of his or her
36 assistants, clerks, or deputies to use for personal benefit any
37 information that is filed with, or obtained by, the commissioner
38 and that is not then generally available to the public.

39 (j) The commissioner shall avoid political activity that may
40 create the appearance of political bias or impropriety. Prohibited

1 activities shall include, but not be limited to, leadership of, or
2 employment by, a political party or a political organization; public
3 endorsement of a political candidate; contribution of more than
4 five hundred dollars (\$500) to any one candidate in a calendar year
5 or a contribution in excess of an aggregate of one thousand dollars
6 (\$1,000) in a calendar year for all political parties or organizations;
7 and attempting to avoid compliance with this prohibition by making
8 contributions through a spouse or other family member.

9 (k) The commissioner shall not participate in making or in any
10 way attempt to use his or her official position to influence a
11 governmental decision in which he or she knows or has reason to
12 know that he or she or a family member, business partner, or
13 colleague has a financial interest.

14 (l) The commissioner, in pursuit of his or her duties, shall have
15 unlimited access to all nonconfidential and all nonprivileged
16 documents in the custody and control of the agency.

17 (m) The Attorney General shall render to the commissioner
18 opinions upon all questions of law, relating to the construction or
19 interpretation of any law under the commissioner's jurisdiction or
20 arising in the administration thereof, that may be submitted to the
21 Attorney General by the commissioner and, upon the
22 commissioner's request, shall act as the attorney for the
23 commissioner in actions and proceedings brought by or against
24 the commissioner or under or pursuant to any provision of any law
25 under the commissioner's jurisdiction.

26 140102. The commissioner shall do all of the following:

27 (a) Oversee the establishment, as part of the administration of
28 the agency, of all of the following:

29 (1) The Healthcare Policy Board, pursuant to Section 140103.

30 (2) The Office of Patient Advocacy, pursuant to Section 140105.

31 (3) The Office of Health Planning, pursuant to Section 140602.

32 (4) The Office of Healthcare Quality, pursuant to Section
33 140605.

34 (5) The Healthcare Fund, pursuant to Section 140200.

35 (6) The Public Advisory Committee, pursuant to Section 140104.

36 (7) The Payments Board, pursuant to Section 140208.

37 (8) Partnerships for Health.

38 (b) Determine goals, standards, guidelines, and priorities for
39 the system.

1 (c) Establish health planning regions, pursuant to Section
2 140112.

3 (d) Oversee the establishment of locally based integrated service
4 networks, including those that provide services through medical
5 technologies such as telemedicine, that include physicians in
6 fee-for-service, solo and group practice, essential community, and
7 ancillary care providers and facilities in order to pool and align
8 resources and form interdisciplinary teams that share responsibility
9 and accountability for patient care and provide a continuum of
10 coordinated high quality primary to tertiary care to all California
11 residents while preserving patient choice. This shall be
12 accomplished in collaboration with the chief medical officer, the
13 Director of the Office of Health Planning, the regional medical
14 officers, the regional planning boards, and the patient advocate.

15 (e) Annually assess projected revenues and expenditures and
16 assure financial solvency of the system pursuant to Section 140203.

17 (f) Develop the system’s budget pursuant to Section 140206 to
18 ensure adequate funding to meet the health care needs of the
19 population. Review all budgets and locations annually to ensure
20 they address disparities in service availability and health care
21 outcomes and for sufficiency of rates, fees, and prices.

22 (g) Establish a capital management framework for the system
23 pursuant to Section 140216, including, but not limited to, a
24 standardized process and format for the development and
25 submission of regional operating and regional capital budget
26 requests and ensure a smooth transition to system oversight.

27 (h) Establish standards and criteria for the development and
28 submission of provider operating and capital budget requests.

29 (i) Establish standards and criteria for the allocation of funds
30 from the Healthcare Fund as described in Chapter 3 (commencing
31 with Section 140200).

32 (j) During transition and annually thereafter, determine the
33 appropriate level for a reserve fund for the system and implement
34 policies needed to establish the appropriate reserve.

35 (k) Establish an enrollment system that ensures all eligible
36 California residents, including those who travel out of state; those
37 who have disabilities that limit their mobility, hearing, or vision
38 or their mental or cognitive capacity; those who cannot read; and
39 those who do not speak or write English, are aware of their right
40 to health care and are formally enrolled in the system. The

1 commissioner may contract with a third party for eligibility and
2 enrollment services if the commissioner finds that doing so would
3 meet the system's goals and standards, and result in greater
4 efficiency and cost savings to the system.

5 (l) Establish an electronic claims and payments system for the
6 system where all claims under the system shall be filed and paid,
7 and implement, to the extent permitted by federal law, standardized
8 claims and reporting methods. The commissioner may contract
9 with a third party for claims and payment services if the
10 commissioner finds that doing so would meet the system's goals
11 and standards, and result in greater efficiency and cost savings to
12 the system.

13 (m) Establish a system of secure electronic medical records that
14 comply with state and federal privacy laws and that are compatible
15 across the system.

16 (n) Establish an electronic referral system that is accessible to
17 providers and to patients.

18 (o) Establish standards based on clinical efficacy to guide
19 delivery of care and a process to identify areas where no such
20 standards exist, set priorities and a timetable for their development,
21 and ensure a smooth transition to clinical decisionmaking under
22 statewide standards.

23 (p) Implement policies to ensure that all Californians receive
24 culturally and linguistically sensitive care, pursuant to Section
25 140604, and that all disabled Californians receive care in
26 accordance with the federal Americans with Disabilities Act (42
27 U.S.C. Sec. 12101 et seq.) and Section 504 of the federal
28 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and develop
29 mechanisms and incentives to achieve these purposes and a means
30 to monitor the effectiveness of efforts to achieve these purposes.

31 (q) Create a systematic approach to the measurement,
32 management, and accountability for care quality and access,
33 including a system of performance contracts that contain
34 measurable goals and outcomes and appropriate statewide and
35 regional health care databases to assure the delivery of quality care
36 to all patients.

37 (r) Establish standards for mandatory reporting by health care
38 providers and penalties for failure to report.

39 (s) Develop methods and a framework to measure the
40 performance of health care coverage and health delivery system

1 upper level managers, including a system of performance contracts
2 that contain measurable goals and outcomes.

3 (t) Implement policies to ensure that all residents of this state
4 have access to medically appropriate, coordinated mental health
5 services.

6 (u) Ensure the establishment of policies that support the public
7 health.

8 (v) Meet regularly with the chief medical officer, the patient
9 advocate for the Office of Patient Advocacy, the Public Advisory
10 Committee, the Director of the Office of Health Planning, the
11 Director of the Payments Board, the Director of the Partnerships
12 for Health, regional planning directors, and regional medical
13 officers to review the impact of the agency and its policies on the
14 health of the population and on satisfaction with the system.

15 (w) Negotiate for or set rates, fees, and prices involving any
16 aspect of the system and establish procedures thereto.

17 (x) Establish a formulary based on clinical efficacy for all
18 prescription drugs and durable and nondurable medical equipment
19 for use by the system.

20 (y) Establish guidelines for prescribing medications and durable
21 medical equipment that are not included in the system's
22 formularies.

23 (z) Utilize the purchasing power of the state to negotiate price
24 discounts for prescription drugs and durable and nondurable
25 medical equipment for use by the system.

26 (aa) Ensure that use of state purchasing power achieves the
27 lowest possible prices for the system without adversely affecting
28 needed pharmaceutical research.

29 (ab) Create incentives and guidelines for research needed to
30 meet the goals of the system and disincentives for research that
31 does not achieve the system goals.

32 (ac) Implement eligibility standards for the system, including
33 guidelines to prevent an influx of persons to the state for the
34 purpose of obtaining medical care.

35 (ad) Determine an appropriate level of, and provide support
36 during the transition for, training and job placement for persons
37 who are displaced from employment as a result of the initiation of
38 the system.

39 (ae) Oversee the establishment of a system for resolution of
40 disputes pursuant to Sections 140608 and 140610.

- 1 (af) Investigate the costs and benefits to the health of the
- 2 population of advances in information technology, including those
- 3 that support data collection, analysis, and distribution.
- 4 (ag) Ensure that consumers of health care have access to
- 5 information needed to support their choice of a physician.
- 6 (ah) Collaborate with the licensing entities of health facilities
- 7 to ensure that facility performance is monitored and that deficient
- 8 practices are recognized and corrected in a timely fashion and that
- 9 consumers and providers of health care have access to information
- 10 needed to support their choice of facility.
- 11 (ai) Establish an Internet Web site that provides information to
- 12 the public about the system that includes, but is not limited to,
- 13 information that supports choice of providers and facilities and
- 14 informs the public about meetings of state and regional health
- 15 planning boards and activities of the Partnerships for Health.
- 16 (aj) Procure funds, including loans, for the system, enter into
- 17 leases, and obtain insurance for the system and its employees and
- 18 agents.
- 19 (ak) Collaborate with state and local authorities, including
- 20 regional planning directors, to plan for needed earthquake retrofits
- 21 in a manner that does not disrupt patient care.
- 22 (al) Establish a process that is accessible to all Californians for
- 23 the system to receive the concerns, opinions, ideas, and
- 24 recommendation of the public regarding all aspects of the system.
- 25 (am) Annually report to the Legislature and the Governor, on
- 26 or before October of each year and at other times pursuant to this
- 27 division, on the performance of the system, its fiscal condition and
- 28 need for rate adjustments, consumer copayments or consumer
- 29 deductible payments, recommendations for statutory changes,
- 30 receipt of payments from the federal government and other sources,
- 31 whether current year goals and priorities are met, future goals, and
- 32 priorities, and major new technology or prescription drugs or other
- 33 circumstances that may affect the cost of health care.
- 34 140103. (a) The commissioner shall establish a Healthcare
- 35 Policy Board and shall serve as the president of the board.
- 36 (b) The board shall do all of the following:
- 37 (1) Establish goals and priorities for the system, including
- 38 research and capital investment priorities.

1 (2) Establish the scope of services to be provided to the
2 population in accordance with Chapter 5 (commencing with Section
3 140500).

4 (3) Establish guidelines for evaluating the performance of the
5 system, its officers, health planning regions, and health care
6 providers.

7 (4) Establish guidelines for ensuring public input on the system's
8 policy, standards, and goals.

9 (c) The board shall consist of the following members:

10 (1) The commissioner.

11 (2) The deputy commissioner.

12 (3) The Director of the Healthcare Fund.

13 (4) The patient advocate of the Office of Patient Advocacy.

14 (5) The chief medical officer.

15 (6) The Director of the Office of Health Planning.

16 (7) The Director of the Partnerships for Health.

17 (8) The Director of the Payments Board.

18 (9) The State Public Health Officer.

19 (10) One member of the Public Advisory Committee who shall
20 serve on a rotating basis to be determined by the Public Advisory
21 Committee.

22 (11) Two representatives from regional planning boards.

23 (A) A regional representative shall serve a term of one year and
24 terms shall be rotated in order to allow every region to be
25 represented within a five-year period.

26 (B) A regional planning director shall appoint the regional
27 representative to serve on the board.

28 (d) It is unlawful for the board members or any of their
29 assistants, clerks, or deputies to use for personal benefit any
30 information that is filed with or obtained by the board and that is
31 not then generally available to the public.

32 140104. (a) The commissioner shall establish the Public
33 Advisory Committee to advise the Healthcare Policy Board on all
34 matters of policy for the system.

35 (b) Members of the Public Advisory Committee shall include
36 all of the following:

37 (1) Four physicians all of whom shall be board certified in their
38 field and at least one of whom shall be a psychiatrist. The Senate
39 Committee on Rules and the Governor shall each appoint one

- 1 member. The Speaker of the Assembly shall appoint two of these
2 members, both of whom shall be primary care providers.
- 3 (2) One registered nurse, to be appointed by the Senate
4 Committee on Rules.
- 5 (3) One licensed vocational nurse, to be appointed by the Senate
6 Committee on Rules.
- 7 (4) One licensed allied health practitioner, to be appointed by
8 the Speaker of the Assembly.
- 9 (5) One mental health care provider, to be appointed by the
10 Senate Committee on Rules.
- 11 (6) One dentist, to be appointed by the Governor.
- 12 (7) One representative of private hospitals, to be appointed by
13 the Governor.
- 14 (8) One representative of public hospitals, to be appointed by
15 the Governor.
- 16 (9) One representative of an integrated health care delivery
17 system, to be appointed by the Governor.
- 18 (10) Four consumers of health care. The Governor shall appoint
19 two of these members, one of whom shall be a member of the
20 disability community. The Senate Committee on Rules shall
21 appoint a member who is 65 years of age or older. The Speaker
22 of the Assembly shall appoint the fourth member.
- 23 (11) One representative of organized labor, to be appointed by
24 the Speaker of the Assembly.
- 25 (12) One representative of essential community providers, to
26 be appointed by the Senate Committee on Rules.
- 27 (13) One union member, to be appointed by the Senate
28 Committee on Rules.
- 29 (14) One representative of small business, to be appointed by
30 the Governor.
- 31 (15) One representative of large business, to be appointed by
32 the Speaker of the Assembly.
- 33 (16) One pharmacist, to be appointed by the Speaker of the
34 Assembly.
- 35 (c) In making appointments pursuant to this section, the
36 Governor, the Senate Committee on Rules, and the Speaker of the
37 Assembly shall make good faith efforts to assure that their
38 appointments, as a whole, reflect, to the greatest extent feasible,
39 the social and geographic diversity of the state.

1 (d) Any member appointed by the Governor, the Senate
2 Committee on Rules, or the Speaker of the Assembly shall serve
3 a four-year term. These members may be reappointed for
4 succeeding four-year terms.

5 (e) Vacancies that occur shall be filled within 30 days after the
6 occurrence of the vacancy, and shall be filled in the same manner
7 in which the vacating member was initially selected or appointed.
8 The commissioner shall notify the appropriate appointing authority
9 of any expected vacancies on the board.

10 (f) Members of the Public Advisory Committee shall serve
11 without compensation, but shall be reimbursed for actual and
12 necessary expenses incurred in the performance of their duties to
13 the extent that reimbursement for those expenses is not otherwise
14 provided or payable by another public agency or agencies, and
15 shall receive one hundred dollars (\$100) for each full day of
16 attending meetings of the committee. For purposes of this section,
17 “full day of attending a meeting” means presence at, and
18 participation in, not less than 75 percent of the total meeting time
19 of the committee during any particular 24-hour period.

20 (g) The Public Advisory Committee shall meet at least six times
21 a year in a place convenient to the public. All meetings of the board
22 shall be open to the public, pursuant to the Bagley-Keene Open
23 Meeting Act (Article 9 (commencing with Section 11120) of
24 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
25 Code).

26 (h) The Public Advisory Committee shall elect a chair who shall
27 serve for two years and who may be reelected for an additional
28 two years.

29 (i) Appointed committee members shall have worked in the
30 field they represent on the committee for a period of at least two
31 years prior to being appointed to the committee.

32 (j) The Public Advisory Committee shall elect a member to
33 serve on the Healthcare Policy Board. The elected member shall
34 serve for one year, and may be recalled by the Public Advisory
35 Committee for cause. In that case, a new member shall be elected
36 to serve on that board. The Public Advisory Committee
37 representative shall represent to the board the views of the
38 committee members.

39 (k) It is unlawful for the committee members or any of their
40 assistants, clerks, or deputies to use for personal benefit any

1 information that is filed with, or obtained by, the committee and
2 that is not generally available to the public.

3 140105. (a) (1) There is within the agency an Office of Patient
4 Advocacy to represent the interests of the consumers of health
5 care. The goal of the office shall be to help residents of the state
6 secure the health care services and benefits to which they are
7 entitled under the laws administered by the agency and to advocate
8 on behalf of and represent the interests of consumers in governance
9 bodies created by this division and in other forums.

10 (2) The office shall be headed by a patient advocate appointed
11 by the commissioner.

12 (3) The patient advocate shall establish an office in the City of
13 Sacramento and other offices throughout the state that shall provide
14 convenient access to residents.

15 (b) The patient advocate shall do all the following:

16 (1) Administer all aspects of the Office of Patient Advocacy.

17 (2) Assure that services of the Office of Patient Advocacy are
18 available to all California residents.

19 (3) Serve on the Healthcare Policy Board and participate in the
20 regional Partnerships for Health.

21 (4) Oversee the establishment and maintenance of the grievance
22 process pursuant to Sections 140608 and 140610.

23 (5) Participate in the grievance process and independent medical
24 review system on behalf of consumers pursuant to Section 140610.

25 (6) Receive, evaluate, and respond to consumer complaints
26 about the system.

27 (7) Provide a means to receive recommendations from the public
28 about ways to improve the system and hold public hearings at least
29 once annually to discuss problems and receive recommendations
30 from the public.

31 (8) Develop educational and informational guides for consumers
32 describing their rights and responsibilities and informing them
33 about effective ways to exercise their rights to secure health care
34 services and to participate in the system. The guides shall be easy
35 to read and understand, available in English and other languages,
36 including Braille and formats suitable for those with hearing
37 limitations, and shall be made available to the public by the agency,
38 including access on the agency's Internet Web site and through
39 public outreach and educational programs, and displayed in
40 provider offices and health care facilities.

1 (9) Establish a toll-free telephone number, including a TDD
2 number, to receive complaints regarding the agency and its
3 services. Those with hearing and speech limitations may use the
4 California Relay Service's toll-free telephone numbers to contact
5 the Office of Patient Advocacy. The agency's Internet Web site
6 shall have complaint forms and instructions on their use.

7 (10) Report annually to the public, the commissioner, and the
8 Legislature about the consumer perspective on the performance
9 of the system, including recommendations for needed
10 improvements.

11 (c) Nothing in this division shall prohibit a consumer or class
12 of consumers or the patient advocate from seeking relief through
13 the judicial system.

14 (d) The patient advocate in pursuit of his or her duties shall have
15 unlimited access to all nonconfidential and all nonprivileged
16 documents in the custody and control of the agency.

17 (e) It is unlawful for the patient advocate or any of his or her
18 assistants, clerks, or deputies to use for personal benefit any
19 information that is filed with, or obtained by, the agency and that
20 is not then generally available to the public.

21 140106. (a) There is within the Office of the Attorney General
22 an Office of the Inspector General for the California Healthcare
23 System. The Inspector General shall be appointed by the Governor
24 and subject to Senate confirmation.

25 (b) The Inspector General shall have broad powers to investigate,
26 audit, and review the financial and business records of individuals,
27 public and private agencies and institutions, and private
28 corporations that provide services or products to the system, the
29 costs of which are reimbursed by the system.

30 (c) The Inspector General shall investigate allegations of
31 misconduct on the part of an employee or appointee of the agency
32 and on the part of any health care provider of services that are
33 reimbursed by the system and shall report any findings of
34 misconduct to the Attorney General.

35 (d) The Inspector General shall investigate patterns of medical
36 practice that may indicate fraud and abuse related to over or under
37 utilization or other inappropriate utilization of medical products
38 and services.

1 (e) The Inspector General shall arrange for the collection and
2 analysis of data needed to investigate the inappropriate utilization
3 of these products and services.

4 (f) The Inspector General shall conduct additional reviews or
5 investigations of financial and business records when requested
6 by the Governor or by any Member of the Legislature and shall
7 report findings of the review or investigation to the Governor and
8 the Legislature.

9 (g) The Inspector General shall establish a telephone hotline
10 for anonymous reporting of allegations of failure to make health
11 insurance premium payments established by this division. The
12 Inspector General shall investigate information provided to the
13 hotline and shall report any findings of misconduct to the Attorney
14 General.

15 (h) The Inspector General shall annually report
16 recommendations for improvements to the system or the agency
17 to the Governor, the Legislature, and the commissioner.

18 140107. The provisions of the Insurance Frauds Prevention
19 Act (Chapter 12 (commencing with Section 1871) of Part 2 of
20 Division 1 of the Insurance Code), and the provisions of Article
21 6 (commencing with Section 650) of Chapter 1 of Division 2 of
22 the Business and Professions Code shall be applicable to health
23 care providers who receive payments for services through the
24 system under this division.

25 140108. (a) Nothing contained in this division is intended to
26 repeal any legislation or regulation governing the professional
27 conduct of any person licensed by the State of California or any
28 legislation governing the licensure of any facility licensed by the
29 State of California.

30 (b) All federal legislation and regulations governing referral
31 fees and fee-splitting, including, but not limited to, Sections
32 1320a-7b and 1395nn of Title 42 of the United States Code, shall
33 be applicable to all health care providers of services reimbursed
34 under this division, whether or not the health care provider is paid
35 with funds coming from the federal government.

36 140110. (a) The system shall be operational no later than two
37 years after the date this division, other than Article 2 (commencing
38 with Section 140230) of Chapter 3, becomes operative, as described
39 in Section 140700.

1 (b) The commissioner shall assess health plans and insurers for
2 care provided by the system in those cases in which a person's
3 health care coverage extends into the time period in which the new
4 system is operative.

5 (c) The commissioner shall implement means to assist persons
6 who are displaced from employment as a result of the initiation of
7 the system, including determination of the period of time during
8 which assistance shall be provided and possible sources of funds,
9 including funds from the system, to support retraining and job
10 placement. That support shall be provided for a period of five years
11 from the date that this division becomes operative.

12 140111. (a) The commissioner shall appoint a transition
13 advisory group, which shall include, but not be limited to, the
14 following members:

- 15 (1) The commissioner.
- 16 (2) The patient advocate of the Office of Patient Advocacy.
- 17 (3) The chief medical officer.
- 18 (4) The Director of the Office of Health Planning.
- 19 (5) The Director of the Healthcare Fund.
- 20 (6) The State Public Health Officer.
- 21 (7) Experts in health care financing and health care
22 administration.
- 23 (8) Direct care providers.
- 24 (9) Representatives of retirement boards.
- 25 (10) Employer and employee representatives.
- 26 (11) Hospital, integrated health care delivery system, essential
27 community provider, and long-term care facility representatives.
- 28 (12) Representatives from state departments and regulatory
29 bodies that shall or may relinquish some or all parts of their
30 delivery of health care services to the system.
- 31 (13) Representatives of counties.
- 32 (14) Consumers of health care services.

33 (b) The transition advisory group shall advise the commissioner
34 on all aspects of the implementation of this division.

35 (c) The transition advisory group shall make recommendations
36 to the commissioner, the Governor, and the Legislature on how to
37 integrate health care delivery services and responsibilities relating
38 to the delivery of the services of the following departments and
39 agencies into the system:

- 40 (1) The State Department of Health Care Services.

- 1 (2) The Department of Managed Health Care.
- 2 (3) The Department of Aging.
- 3 (4) The Department of Developmental Services.
- 4 (5) The Health and Welfare Data Center.
- 5 (6) The State Department of Mental Health.
- 6 (7) The State Department of Alcohol and Drug Programs.
- 7 (8) The Department of Rehabilitation.
- 8 (9) The Emergency Medical Services Authority.
- 9 (10) The Managed Risk Medical Insurance Board.
- 10 (11) The Office of Statewide Health Planning and Development.
- 11 (12) The Department of Insurance.
- 12 (13) The State Department of Public Health.
- 13 (d) The transition advisory group shall make recommendations
- 14 to the Governor, the Legislature, and the commissioner regarding
- 15 research needed to support transition to the system.
- 16 140112. (a) The transition advisory group shall make
- 17 recommendations to the commissioner relative to how the system
- 18 shall be regionalized for the purposes of local and
- 19 community-based planning for the delivery of high quality
- 20 cost-effective care and efficient service delivery.
- 21 (b) The commissioner, in consultation with the Director of the
- 22 Office of Health Planning, shall establish up to 10 health planning
- 23 regions composed of geographically contiguous counties grouped
- 24 on the basis of the following considerations:
- 25 (1) Patterns of utilization of health care services.
- 26 (2) Health care resources, including workforce resources.
- 27 (3) Health needs of the population, including public health
- 28 needs.
- 29 (4) Geography.
- 30 (5) Population and demographic characteristics.
- 31 (6) Other considerations as determined by the commissioner,
- 32 the Director of the Office of Health Planning, or the chief medical
- 33 officer.
- 34 (c) The commissioner shall appoint a director for each region.
- 35 Regional planning directors shall serve at the will of the
- 36 commissioner and may serve up to two eight-year terms to coincide
- 37 with the terms of the commissioner.
- 38 (d) Each regional planning director shall appoint a regional
- 39 medical officer.

1 (e) Compensation for officers of the system and appointees who
2 are exempt from the civil service shall be established by the
3 California Citizens Commission in accordance with Section 8 of
4 Article III of the California Constitution, and shall take into
5 consideration regional differences in the cost of living.

6 (f) The regional planning director and the regional medical
7 officer shall be subject to Title 9 (commencing with Section 81000)
8 of the Government Code and shall comply with the qualifications
9 for office described in subdivisions (c), (d), and (e) of Section
10 140100 and subdivisions (j) and (k) of Section 140101.

11 140113. (a) Regional planning directors shall administer the
12 health planning region. The regional planning director shall be
13 responsible for all duties, the exercise of all powers and
14 jurisdiction, and the assumptions and discharge of all
15 responsibilities vested by law in the regional agency. The regional
16 planning director shall perform all duties imposed upon him or
17 her by this division and by other laws related to health care, and
18 shall enforce execution of those provisions and laws to promote
19 their underlying aims and purposes.

20 (b) The regional planning director shall reside in the region in
21 which he or she serves.

22 (c) The regional planning director shall do all of the following:

23 (1) Establish and administer a regional office of the state agency.
24 Each regional office shall include, at minimum, an office of each
25 of the following: Patient Advocacy, Health Care Quality, Health
26 Planning, and Partnerships for Health.

27 (2) Appoint regional planning board members and serve as
28 president of the board.

29 (3) Identify and prioritize regional health care needs and goals,
30 in collaboration with the regional medical officer, regional health
31 care providers, the regional planning board, and regional director
32 of Partnerships for Health pursuant to the priorities and goals of
33 the system established by the commissioner.

34 (4) Regularly assess projected revenues and expenditures to
35 ensure fiscal solvency of the regional planning system and advise
36 the commissioner of potential revenue shortfalls and the possible
37 need for cost controls.

38 (5) Assure that regional administrative costs meet standards
39 established by the division and seek innovative means to lower

- 1 the costs of administration of the regional planning office and those
2 of regional providers.
- 3 (6) Plan for the delivery of, and equal access to, high quality
4 and culturally and linguistically sensitive care and such care for
5 disabled persons that meets the needs of all regional residents
6 pursuant to standards established by the commissioner.
- 7 (7) Seek innovative and systemic means to improve care quality
8 and efficiency of care delivery and to achieve access to programs
9 for all state residents.
- 10 (8) Recommend means to implement policies established by
11 the commissioner to provide support to persons displaced from
12 employment as a result of the initiation of the new system.
- 13 (9) Make needed revenue sharing arrangements so that
14 regionalization does not limit a patient’s choice of provider.
- 15 (10) Implement procedures established by the commissioner
16 for the resolution of disputes.
- 17 (11) Implement processes established by the commissioner and
18 recommend needed changes to permit the public to share concerns,
19 provide ideas, opinions, and recommendations regarding all aspects
20 of the system’s policies.
- 21 (12) Report regularly to the public and, at intervals determined
22 by the commissioner and pursuant to this division, to the
23 commissioner on the status of the regional planning system,
24 including evaluating access to care, quality of care delivered, and
25 provider performance, and other issues related to regional health
26 care needs, and recommending needed improvements.
- 27 (13) Identify or establish guidelines for providers to identify,
28 maintain, and provide to the regional planning director inventories
29 of regional health care assets.
- 30 (14) Establish and maintain regional health care databases that
31 are coordinated with other regional and statewide databases.
- 32 (15) In collaboration with the regional medical officer, enforce
33 reporting requirements established by the system and make
34 recommendations to the commissioner, the Director of the Office
35 of Health Planning, and the chief medical officer for needed
36 changes in reporting requirements.
- 37 (16) Establish and implement a regional capital management
38 plan pursuant to the capital management plan established by the
39 commissioner for the system.

1 (17) Implement standards and formats established by the
2 commissioner for the development and submission of operating
3 and capital budget requests and make recommendations to the
4 commissioner and the Director of the Office of Health Planning
5 for needed changes.

6 (18) Support regional providers in developing operating and
7 capital budget requests.

8 (19) Receive, evaluate, and prioritize provider operating and
9 capital budget requests pursuant to standards and criteria
10 established by the commissioner.

11 (20) Prepare a three-year regional operating and capital budget
12 request that meets the health care needs of the region pursuant to
13 this division, for submission to the commissioner.

14 (21) Establish a comprehensive three-year regional planning
15 budget using funds allocated to the region by the commissioner.

16 140114. The regional medical officers shall do all of the
17 following:

18 (a) Administer all aspects of the regional office of health care
19 quality.

20 (b) Serve as a member of the regional planning board.

21 (c) In collaboration with the commissioner, the chief medical
22 officer, the regional medical officer, regional planning boards, the
23 patient advocate of the Office of Patient Advocacy, regional
24 providers, and patients, oversee the establishment of integrated
25 service networks, including those that provide services through
26 medical technologies such as telemedicine, that include physicians
27 in fee-for-service, solo and group practice, essential community,
28 and ancillary care providers and facilities that pool and align
29 resources and form interdisciplinary teams that share responsibility
30 and accountability for patient care and provide a continuum of
31 coordinated high quality primary to tertiary care to all residents
32 of the region.

33 (d) Ensure the evaluation and measurement of the quality of
34 care delivered in the region, including assessment of the
35 performance of individual providers, pursuant to standards and
36 methods established by the chief medical officer to ensure a single
37 standard of high quality care is delivered to all state residents.

38 (e) In collaboration with the chief medical officer and regional
39 providers, evaluate standards of care in use at the time the system
40 becomes operative.

- 1 (f) Ensure a smooth transition toward use of standards based
2 on clinical efficacy that guide clinical decisionmaking. Identify
3 areas of medical practice where standards have not been established
4 and collaborated with the chief medical officer and health care
5 providers, to establish priorities in developing needed standards.
- 6 (g) Support the development and distribution of user-friendly
7 software for use by providers in order to support the delivery of
8 high quality care.
- 9 (h) Provide feedback to, and support and supervision of, health
10 care providers to ensure the delivery of high quality care pursuant
11 to standards established by the system.
- 12 (i) Collaborate with the regional Partnerships for Health to
13 develop patient education to assist consumers in evaluating and
14 appropriately utilizing health care providers and facilities.
- 15 (j) Collaborate with regional public health officers to establish
16 regional health policies that support the public health.
- 17 (k) Establish a regional program to monitor and decrease
18 medical errors and their causes pursuant to standards and methods
19 established by the chief medical officer.
- 20 (l) Support the development and implementation of innovative
21 means to provide high quality care and assist providers in securing
22 funds for innovative demonstration projects that seek to improve
23 care quality.
- 24 (m) Establish means to assess the impact of the system's policies
25 intended to assure the delivery of high quality care.
- 26 (n) Collaborate with the chief medical officer, the Director of
27 the Office of Health Planning, the regional planning director, and
28 health care providers in the development and maintenance of
29 regional health care databases.
- 30 (o) Ensure the enforcement of, and recommend needed changes
31 in, the system's reporting requirements.
- 32 (p) Support providers in developing regional budget requests.
- 33 (q) Annually report to the commissioner, the public, the regional
34 planning board, and the chief medical officer on the status of
35 regional health care programs, needed improvements, and plans
36 to implement and evaluate delivery of care improvements.
- 37 140115. (a) Each region shall have a regional planning board
38 consisting of 13 members who shall be appointed by the regional
39 planning director. Members shall serve eight-year terms that

1 coincide with the term of the regional planning director and may
2 be reappointed for a second term.

3 (b) Regional planning board members shall have resided for a
4 minimum of two years in the region in which they serve prior to
5 appointment to the board.

6 (c) Regional planning board members shall reside in the region
7 they serve while on the board.

8 (d) The board shall consist of the following members:

9 (1) The regional planning director, the regional medical officer,
10 the regional director of the Partnerships for Health, and a public
11 health officer from one of the counties in the region.

12 (2) When there is more than one county in a region, the public
13 health officer board position shall rotate among the public health
14 county officers on a timetable to be established by each regional
15 planning board.

16 (3) A representative from the Office of Patient Advocacy.

17 (4) One expert in health care financing.

18 (5) One expert in health care planning.

19 (6) Two members who are direct care providers in the region,
20 one of whom shall be a registered nurse.

21 (7) One member who represents ancillary health care workers
22 in the region.

23 (8) One member representing hospitals in the region.

24 (9) One member representing essential community providers
25 in the region.

26 (10) One member representing the public.

27 (e) The regional planning director shall serve as chair of the
28 board.

29 (f) The purpose of the regional planning boards is to advise and
30 make recommendations to the regional planning director on all
31 aspects of regional health policy.

32 (g) Meetings of the board shall be open to the public pursuant
33 to the Bagley-Keene Open Meeting Act (Article 9 (commencing
34 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
35 2 of the Government Code).

36 140116. The following conflict-of-interest prohibitions shall
37 apply to all appointees of the commissioner or transition advisory
38 group, including, but not limited to, the patient advocate, the
39 Director of the Healthcare Fund, the purchasing director, the
40 Director of the Office of Health Planning, the Director of the

1 Payments Board, the chief medical officer, the Director of
2 Partnerships for Health, regional planning directors, and the
3 Inspector General:

4 (a) The appointee shall not have been employed in any capacity
5 by a for-profit insurance, pharmaceutical, or medical equipment
6 company that sells products to the system for a period of two years
7 prior to appointment.

8 (b) For two years after completing service in the system, the
9 appointee may not receive payments of any kind from, or be
10 employed in any capacity or act as a paid consultant to, a for-profit
11 insurance, pharmaceutical, or medical equipment company that
12 sells products to the system.

13 (c) The appointee shall avoid political activity that may create
14 the appearance of political bias or impropriety. Prohibited activities
15 shall include, but not be limited to, leadership of, or employment
16 by, a political party or a political organization; public endorsement
17 of a political candidate; contribution of more than five hundred
18 dollars (\$500) to any one candidate in a calendar year or a
19 contribution in excess of an aggregate of one thousand dollars
20 (\$1,000) in a calendar year for all political parties or organizations;
21 and attempting to avoid compliance with this prohibition by making
22 contributions through a spouse or other family member.

23 (d) The appointee shall not participate in making or in any way
24 attempt to use his or her official position to influence a
25 governmental decision in which he or she or a family member,
26 business partner, or colleague has a financial interest.

27
28 CHAPTER 3. FUNDING

29
30 Article 1. General Provisions

31
32 140200. (a) In order to support the agency effectively in the
33 administration of this division, there is hereby established in the
34 State Treasury the Healthcare Fund. The fund shall be administered
35 by a director appointed by the commissioner.

36 (b) All moneys collected, received, and transferred pursuant to
37 this division shall be transmitted to the State Treasury to be
38 deposited to the credit of the Healthcare Fund for the purpose of
39 financing the California Healthcare System.

1 (c) Moneys deposited in the Healthcare Fund shall be used
2 exclusively to support this division, subject to appropriation by
3 the Legislature.

4 (d) All claims for health care services rendered pursuant to the
5 system shall be made to the Healthcare Fund through an electronic
6 claims and payment system. The commissioner shall investigate
7 the costs, benefits, and means of supporting health care providers
8 in obtaining electronic systems for claims and payments
9 transactions; however, alternative provisions shall be made for
10 health care providers without electronic systems.

11 (e) All payments made for health care services shall be disbursed
12 from the Healthcare Fund through an electronic claims and
13 payments system; however, alternative provisions shall be made
14 for health care providers without electronic systems.

15 (f) The director of the fund shall serve on the Healthcare Policy
16 Board.

17 140201. (a) The Director of the Healthcare Fund shall establish
18 the following accounts within the Healthcare Fund:

19 (1) A system account to provide for all annual state expenditures
20 for health care.

21 (2) A reserve account.

22 (b) Premiums collected each year shall be roughly sufficient to
23 cover that year's projected costs.

24 (c) The system shall at all times hold an actuarially sound
25 reserve that is consistent with appropriate risk-based capital
26 standards to assure financial solvency of the system.

27 (d) During the transition, the commissioner shall work with the
28 Department of Insurance, the Department of Managed Health Care,
29 and other experts to determine an appropriate level of reserves for
30 the system for the first year and for future years of its operation.

31 (e) Moneys currently held in reserve by state health programs,
32 city and county contributions as determined by the commissioner
33 pursuant to subdivision (c) of Section 140240, and federal moneys
34 for health care held in reserve in federal trust accounts shall be
35 transferred to the reserve account when the state assumes financial
36 responsibility for health care under this division that is currently
37 provided by those programs.

38 (f) The commissioner may implement arrangements to
39 self-insure the system against unforeseen expenditures or revenue
40 shortfalls not covered by reserves and may borrow funds to cover

1 temporary revenue shortfalls not covered by system reserves,
2 including the issuance of bonds for this purpose, whichever is the
3 more cost effective.

4 (g) Funds held in the reserve account and other Healthcare Fund
5 accounts may be prudently invested to increase their value
6 according to the Department of Managed Health Care's standards
7 for financial solvency.

8 140203. (a) The Director of the Healthcare Fund shall
9 immediately notify the commissioner when regional or statewide
10 revenue and expenditure trends indicate that expenditures may
11 exceed revenues.

12 (b) If the commissioner determines that statewide revenue trends
13 indicate the need for statewide cost control measures, the
14 commissioner shall convene the Healthcare Policy Board to discuss
15 the need for cost control measures and shall immediately report
16 to the Legislature and the public regarding the possible need for
17 cost control measures.

18 (c) Cost control measures include any or all of the following:

19 (1) Changes in the system or health facility administration that
20 improve efficiency.

21 (2) Changes in the delivery of health care services that improve
22 efficiency and care quality.

23 (3) Postponement of introduction of new benefits or benefit
24 improvements.

25 (4) Seeking statutory authority for a temporary decrease in
26 benefits.

27 (5) Postponement of planned capital expenditures.

28 (6) Adjustments of health care provider payments to correct for
29 deficiencies in care quality and failure to meet compensation
30 contract performance goals, pursuant to subdivisions (a) to (f),
31 inclusive, of Section 140106, paragraph (4) of subdivision (a) of
32 Section 140204, subdivision (a) of Section 140213, and
33 subdivisions (c) and (d) of Section 140606.

34 (7) Adjustments to the compensation of managerial employees
35 and upper level managers under contract with the system to correct
36 for deficiencies in management and failure to meet contract
37 performance goals.

38 (8) Limitations on the reimbursement budgets of the system's
39 providers and upper level managers whose compensation is
40 determined by the Payments Board.

1 (9) Limitations on aggregate reimbursements to manufacturers
2 of pharmaceutical and durable and nondurable medical equipment.

3 (10) Deferred funding of the reserve account.

4 (11) Imposition of copayments or deductible payments. Any
5 copayment or deductible payments imposed under this section
6 shall be subject to all of the following requirements:

7 (A) No copayment or deductible may be established when
8 prohibited by federal law.

9 (B) All copayments and deductibles shall meet federal guidelines
10 for copayments and deductible payments that may lawfully be
11 imposed on persons with low income.

12 (C) The commissioner shall establish standards and procedures
13 for waiving copayments or deductible payments and a waiver card
14 that shall be issued to a patient or to a family to indicate the waiver.
15 Procedures for copayment waiver may include a determination by
16 a patient's primary care provider that imposition of a copayment
17 would be a financial hardship. Copayment and deductible waivers
18 shall be reviewed annually by the regional planning director.

19 (D) Waivers shall not affect the reimbursement of health care
20 providers.

21 (E) Any copayments or deductible payments established
22 pursuant to this section shall be transmitted to the Treasurer to be
23 deposited to the credit of the Healthcare Fund.

24 (12) Imposition of an eligibility waiting period and other means
25 if the commissioner determines that large numbers of people are
26 immigrating to the state for the purpose of obtaining health care
27 through the system.

28 (d) Nothing in this division shall be construed to diminish the
29 benefits that an individual has under a collective bargaining
30 agreement or statute.

31 (e) Nothing in this division shall preclude employees from
32 receiving benefits available to them under a collective bargaining
33 agreement or other employee-employer agreement or a statute that
34 are superior to benefits under this division.

35 (f) Cost control measures implemented by the commissioner
36 and the Healthcare Policy Board shall remain in place in the state
37 until the commissioner and the Healthcare Policy Board determine
38 that the cause of a revenue shortfall has been corrected.

39 (g) If the Healthcare Policy Board determines that cost control
40 measures described in subdivision (c) will not be sufficient to meet

1 a revenue shortfall, the commissioner shall report to the Legislature
2 and to the public on the causes of the shortfall and the reasons for
3 the failure of cost controls and shall recommend measures to
4 correct the shortfall, including an increase in premium payments
5 to the system.

6 140204. (a) If the commissioner or a regional planning director
7 determines that regional revenue and expenditure trends indicate
8 a need for regional cost control measures, the regional planning
9 director shall convene the regional planning board to discuss the
10 possible need for cost control measures and to make a
11 recommendation about appropriate measures to control costs.
12 These may include any of the following:

13 (1) Changes in the administration of the system or in health
14 facility administration that improve efficiency.

15 (2) Changes in the delivery of health care services and health
16 system management that improve efficiency or care quality.

17 (3) Postponement of planned regional capital expenditures.

18 (4) Adjustment of payments to health care providers to reflect
19 deficiencies in care quality and failure to meet compensation
20 contract performance goals and payments to upper level managers
21 to reflect deficiencies in management and failure to meet
22 compensation contract performance goals.

23 (5) Adjustment of payments to health care providers and upper
24 level managers above a specified amount of aggregate billing.

25 (6) Adjustment of payments to pharmaceutical and medical
26 equipment manufacturers and others selling goods and services to
27 the system above a specified amount of aggregate billing.

28 (b) If a regional planning board is convened to implement cost
29 control measures, the commissioner shall participate in the regional
30 planning board meeting.

31 (c) The regional planning director, in consultation with the
32 commissioner, shall determine if cost control measures are
33 warranted and those measures that shall be implemented.

34 (d) Imposition of copayments or deductibles, postponement of
35 new benefits or benefit improvements, deferred funding of the
36 reserve account, establishment of eligibility waiting periods, and
37 increases in premium payments under the system may occur on a
38 statewide basis only and with the concurrence of the commissioner
39 and the Healthcare Policy Board.

1 (e) If a regional planning director and regional planning board
2 are considering imposition of cost control measures, the regional
3 planning director shall immediately report to the residents of the
4 region regarding the possible need for cost control measures.

5 (f) Cost control measures shall remain in place in a region until
6 the regional planning director and the commissioner determine
7 that the cause of a revenue shortfall has been corrected.

8 140205. (a) If, on June 30 of any year, the Budget Act for the
9 fiscal year beginning on July 1 has not been enacted, all moneys
10 in the reserve account of the Healthcare Fund shall be used to
11 implement this division until funds are available through the
12 Budget Act.

13 (b) Notwithstanding any other provision of law and without
14 regard to fiscal year, if the annual Budget Act is not enacted by
15 June 30 of any fiscal year preceding the fiscal year to which the
16 budget would apply and if the commissioner determines that funds
17 in the reserve account are depleted, the following shall occur:

18 (1) The Controller shall annually transfer from the General
19 Fund, in the form of one or more loans, an amount to the
20 Healthcare Fund for the purpose of making payments to health
21 care providers and to persons and businesses under contract with
22 the system or with health care providers to provide services,
23 medical equipment, and pharmaceuticals to the system.

24 (2) Upon enactment of the Budget Act in any fiscal year to
25 which paragraph (1) applies, the Controller shall transfer all
26 expenditures and unexpected funds loaned to the Healthcare Fund
27 to the appropriate Budget Act item.

28 (3) The amount of any loan made pursuant to paragraph (1) for
29 which moneys were expended from the Healthcare Fund shall be
30 repaid by debiting the appropriate Budget Act item in accordance
31 with procedures prescribed by the Department of Finance.

32 140206. (a) The commissioner annually shall prepare a budget
33 for the system that includes all expenditures, specifies a limit on
34 total annual state expenditures, and establishes allocations for each
35 health care region that shall cover a three-year period and that shall
36 be disbursed on a quarterly basis.

37 (b) The commissioner shall limit the growth of spending on a
38 statewide and on a regional basis, by reference to average growth
39 in state domestic product across multiple years; population growth,
40 actuarial demographics and other demographic indicators;

1 differences in regional costs of living; advances in technology and
2 their anticipated adoption into the benefit plan; improvements in
3 efficiency of administration and care delivery; improvements in
4 the quality of care; and projected future state domestic product
5 growth rates.

6 (c) The commissioner shall adjust the system's budget so that
7 aggregate spending in the state on health care shall not exceed
8 spending under this division by more than 5 percent.

9 (d) The commissioner shall project the system's revenues and
10 expenditures for 3, 6, 9, and 12 years pursuant to parameters
11 prescribed in subdivision (f).

12 (e) The budget for the system shall include all of the following:

13 (1) Transition budget.

14 (2) Providers and managers budget.

15 (3) Capitated operating budgets.

16 (4) Noncapitated operating budgets.

17 (5) Capital investment budget.

18 (6) Purchasing budget, including prescription drugs and durable
19 and nondurable medical equipment pursuant to Section 140220.

20 (7) Research and innovation budget pursuant to Section 140221.

21 (8) Workforce training and development budget pursuant to
22 Section 140222.

23 (9) Reserve account pursuant to Section 140223.

24 (10) System administration budget pursuant to Section 140224.

25 (11) Regional budgets.

26 (f) In establishing budgets, the commissioner shall make
27 adjustments based on all of the following:

28 (1) Costs of transition to the new system.

29 (2) Projections regarding the health care services anticipated to
30 be used by California residents.

31 (3) Differences in cost of living between the regions, including
32 the overhead costs of maintaining medical practices.

33 (4) Health risk of enrollees.

34 (5) Scope of services provided.

35 (6) Innovative programs that improve care quality,
36 administrative efficiency, and workplace safety.

37 (7) Unrecovered cost of providing care to persons who are not
38 enrollees of the system. The commissioner shall seek to recover
39 the costs of care provided to persons who are not enrollees of the
40 system.

- 1 (8) Costs of workforce training and development.
- 2 (9) Costs of correcting health outcome disparities and the unmet
- 3 needs of previously uninsured and underinsured enrollees.
- 4 (10) Relative usage of different health care providers.
- 5 (11) Needed improvements in access to care.
- 6 (12) Projected savings in administrative costs.
- 7 (13) Projected savings due to provision of primary and
- 8 preventive care to the population, including savings from decreases
- 9 in preventable emergency room visits and hospitalizations.
- 10 (14) Projected savings from improvements in care quality.
- 11 (15) Projected savings from decreases in medical errors.
- 12 (16) Projected savings from systemwide management of capital
- 13 expenditures.
- 14 (17) Cost of incentives and bonuses to support the delivery of
- 15 high quality care, including incentives and bonuses needed to
- 16 recruit and retain an adequate supply of needed providers and
- 17 managers and to attract health care providers to medically
- 18 underserved areas.
- 19 (18) Costs of treating complex illnesses, including disease
- 20 management programs.
- 21 (19) Cost of implementing standards of care, care coordination,
- 22 electronic medical records, and other electronic initiatives.
- 23 (20) Costs of new technology.
- 24 (21) Technology research and development costs and costs
- 25 related to the system's use of new technologies.
- 26 (g) Moneys in the reserve account shall not be considered as
- 27 available revenues for the purposes of preparing the system's
- 28 budget, except when the annual Budget Act has not been enacted
- 29 by June 30 of any fiscal year.
- 30 140207. The commissioner shall annually establish the total
- 31 funds to be allocated for provider and manager compensation
- 32 pursuant to this section. In establishing the provider and manager
- 33 budgets, the commissioner shall allot sufficient funds to assure
- 34 that California can attract and retain those providers and managers
- 35 needed to meet the health care needs of the population. In
- 36 establishing provider and manager budgets, the commissioner shall
- 37 allocate funds for both salaries, incentives, bonuses, and benefits
- 38 to be provided to officers and upper level managers of the system
- 39 who are exempt from state civil service statutes.

1 140208. (a) The commissioner shall establish the Payments
2 Board and shall appoint a director and members of the board.

3 (b) The commissioner shall retain the authority to review,
4 approve, reject, and modify all payment contracts and
5 compensation plans established pursuant to this section.

6 (c) The Payments Board shall be composed of experts in health
7 care finance and insurance systems, a designated representative
8 of the commissioner, a designated representative of the Healthcare
9 Fund, and a representative of the regional planning directors. The
10 position of regional representative shall rotate among the directors
11 of the regional planning boards every two years.

12 (d) The board shall establish and supervise a uniform payments
13 system for health care providers and managers and shall maintain
14 a compensation plan for all of the following health care providers
15 and managers pursuant to the provider and manager budget
16 established by the commissioner:

17 (1) Upper level managers employed by, or under contract with,
18 private health care facilities, including, but not limited to, hospitals,
19 integrated health care delivery systems, group and solo medical
20 practices, and essential community facilities.

21 (2) Managers and officers of the system who are exempt from
22 statutes governing civil service employment.

23 (3) Health care providers including, but not limited to,
24 physicians, osteopathic physicians, dentists, podiatrists, nurse
25 practitioners, physician assistants, chiropractors, acupuncturists,
26 psychologists, social workers, marriage, family and child
27 counselors, and other professional health care providers who are
28 required by law to be licensed to practice in California and who
29 provide services pursuant to the system.

30 (4) Compensation for employees of the system that was
31 determined through employer-union negotiations before
32 implementation of this division shall be determined by negotiations
33 between the system and the unions after implementation of this
34 division.

35 (5) Health care providers licensed and accredited to provide
36 services in California may choose to be compensated for their
37 services either by the system or by a person to whom they provide
38 services.

1 (6) Health care providers electing to be compensated by the
2 system shall enter into a contract with the system pursuant to
3 provisions of this section.

4 (7) Health care providers electing to be compensated by persons
5 to whom they provide services, instead of by the system, may
6 establish charges for their services.

7 (8) Health care providers who accept any payment from the
8 system under this division shall not bill a patient for any covered
9 service, except as authorized by the commissioner.

10 (e) Health care providers licensed or accredited to provide
11 services in California, who choose to be compensated by the system
12 instead of by patients to whom they provide services, may choose
13 how they wish to be compensated under this division, as
14 fee-for-service providers or as providers employed by, or under
15 contract with, health care systems that provide comprehensive,
16 coordinated services.

17 (f) Notwithstanding provisions of the Business and Professions
18 Code, nurse practitioners, physician assistants, and others who
19 under California law must be supervised by a physician and
20 surgeon, an osteopathic physician, a dentist, or a podiatrist, may
21 choose fee-for-service compensation while under lawfully required
22 supervision. However, nothing in this section shall interfere with
23 the right of a supervising health care provider to enter into a
24 contractual arrangement that provides for salaried compensation
25 for employees who must be supervised under the law by a
26 physician and surgeon, an osteopathic physician, a dentist, or a
27 podiatrist.

28 (g) The compensation plan shall include all of the following:

29 (1) Actuarially sound payments that include a just and fair return
30 for health care providers in the fee-for-service sector and for health
31 care providers working in health systems where comprehensive
32 and coordinated services are provided, including the actuarial basis
33 for the payment.

34 (2) Payment schedules that shall be in effect for three years.

35 (3) Bonus and incentive payments, including, but not limited
36 to, all the following:

37 (A) Bonus payments for health care providers and upper level
38 managers who, in providing services and managing facilities,
39 practices, and integrated health systems pursuant to this division,

1 meet performance standards and outcome goals established by the
2 system.

3 (B) Incentive payments for health care providers and upper level
4 managers who provide services to the system in areas identified
5 by the Office of Health Planning as medically underserved.

6 (C) Incentive payments required to achieve the ratio of generalist
7 to specialist health care providers needed in order to meet the
8 standards of care and health needs of the population.

9 (D) Incentive payments required to recruit and retain nurse
10 practitioners and physician assistants in order to provide primary
11 and preventive care to the population.

12 (E) No bonus or incentive payment may be made in excess of
13 the total allocation for health care provider and manager incentive
14 and bonus reimbursement established by the commissioner in the
15 system's budget.

16 (F) No incentive may adversely affect the care a patient receives
17 or the care a health care provider recommends.

18 (h) Health care providers shall be paid for all services provided
19 pursuant to this division, including care provided to persons who
20 are subsequently determined to be ineligible for the system.

21 (i) Licensed health care providers who deliver services not
22 covered under the system may establish rates and charge patients
23 for those services.

24 (j) Reimbursement to health care providers and compensation
25 to managers may not exceed the amount allocated by the
26 commissioner to provider and manager annual budgets.

27 140209. (a) Fee-for-service health care providers shall choose
28 representatives of their specialties to negotiate reimbursement rates
29 with the Payments Board on their behalf.

30 (b) The Payments Board shall establish a uniform system of
31 payments for all services provided pursuant to this division.

32 (c) Payment schedules shall be available to health care providers
33 in printed and in electronic documents.

34 (d) Payment schedules shall be in effect for three years, at which
35 time payment schedules may be renegotiated. Payment adjustments
36 may be made at the discretion of the Payments Board to meet the
37 goals of the system.

38 (e) In establishing a uniform system of payments, the Payments
39 Board shall collaborate with regional planning directors and health
40 care providers and shall take into consideration regional differences

1 in the cost of living and the need to recruit and retain skilled health
2 care providers in the region.

3 (f) Fee-for-service health care providers shall submit claims
4 electronically to the Healthcare Fund and shall be paid within 30
5 business days for claims filed in compliance with procedures
6 established by the Healthcare Fund.

7 140210. (a) Compensation for health care providers and upper
8 level managers employed by, or under contract with, integrated
9 health care delivery systems, group medical practices, and essential
10 community providers that provide comprehensive, coordinated
11 services shall be determined according to the following guidelines:

12 (b) Health care providers and upper level managers employed
13 by, or under contract with, systems that provide comprehensive,
14 coordinated health care services shall be represented by their
15 respective employers or contractors for the purposes of negotiating
16 reimbursement with the Payments Board.

17 (c) In negotiating reimbursement with systems providing
18 comprehensive, coordinated services, the Payments Board shall
19 take into consideration the need for comprehensive systems to
20 have flexibility in establishing health care provider and upper level
21 manager reimbursement.

22 (d) Payment schedules shall be in effect for three years.
23 However, payment adjustments may be made at the discretion of
24 the Payments Board to meet the goals of the system.

25 (e) The Payments Board shall take into consideration regional
26 differences in the cost of living and the need to recruit and retain
27 skilled health care providers and upper level managers to the
28 regions.

29 (f) The Payments Board shall establish a timetable for
30 reimbursement for fee-for-service health care provider's
31 negotiations. If an agreement on reimbursement is not reached
32 according to the timetable established by the Payments Board, the
33 Payments Board shall establish reimbursement rates, which shall
34 be binding.

35 (g) Reimbursement negotiations shall be conducted consistent
36 with the state action doctrine of the antitrust laws.

37 140211. (a) The Payments Board shall annually report to the
38 commissioner on the status of health care provider and upper level
39 manager reimbursement, including satisfaction with reimbursement
40 levels and the sufficiency of funds allocated by the commissioner

1 for provider and upper level manager reimbursement. The
2 Payments Board shall recommend needed adjustments in the
3 allocation for health care provider payments.

4 (b) The Office of Health Care Quality shall annually report to
5 the commissioner on the impact of the bonus payments in
6 improving quality of care, health outcomes, and management
7 effectiveness. The Payments Board shall recommend needed
8 adjustments in bonus allocations.

9 (c) The Office of Health Planning shall annually report to the
10 commissioner on the impact of the incentive payments in recruiting
11 health care providers and upper level managers to underserved
12 areas, in establishing the needed ratio of generalist to specialist
13 health care providers and in attracting and retaining nurse
14 practitioners and physician assistants to the state and shall
15 recommend needed adjustments.

16 140212. (a) The commissioner shall establish an allocation
17 for each region to fund regional operating and capital budgets for
18 a period of three years. Allocations shall be disbursed to the regions
19 on a quarterly basis.

20 (b) Integrated health care delivery systems, essential community
21 providers, and group medical practices that provide comprehensive,
22 coordinated services may choose to be reimbursed on the basis of
23 a capitated system operating budget or a noncapitated system
24 operating budget that covers all costs of providing health care
25 services.

26 (c) Health care providers choosing to function on the basis of
27 a capitated or a noncapitated system operating budget shall submit
28 three-year operating budget requests to the regional planning
29 director, pursuant to standards and guidelines established by the
30 commissioner.

31 (1) Health care providers may include in their operating budget
32 requests reimbursement for ancillary health care or social services
33 that were previously funded by money now received and disbursed
34 by the Healthcare Fund.

35 (2) No payment may be made from a capitated or noncapitated
36 budget for a capital expense except as provided in Section 140216.

37 (d) Regional planning directors shall negotiate operating budgets
38 with regional health care entities, which shall cover a period of
39 three years.

1 (e) Operating and capitated budgets shall include health care
2 workforce labor costs other than those described in paragraphs
3 (1), (2), and (3) of subdivision (d) of Section 140208. If unions
4 represent employees working in systems functioning under
5 capitated or noncapitated budgets, unions shall represent those
6 employees in negotiations with the regional planning director and
7 the Payments Board for the purpose of establishing their
8 reimbursement.

9 140213. (a) Health systems and medical practices functioning
10 under capitated and noncapitated operating budgets shall
11 immediately report any projected operating deficit to the regional
12 planning director. The regional planning director shall determine
13 whether projected deficits reflect appropriate increases in
14 expenditures, in which case the director shall make an adjustment
15 to the operating budget. If the director determines that deficits are
16 not justifiable, no adjustment shall be made.

17 (b) If a regional planning director determines that adjustments
18 to operating budgets will cause a regional revenue shortfall and
19 that cost control measures may be required, the regional planning
20 director shall report the possible revenue shortfall to the
21 commissioner and take actions required pursuant to Section
22 140203.

23 140215. (a) Margins generated by a facility operating under
24 a system operating budget may be retained and used to meet the
25 health care needs of the population.

26 (b) No margin may be retained if that margin was generated
27 through inappropriate limitations on access to health care or
28 compromises in the quality of care or in any way that adversely
29 affected or is likely to adversely affect the health of the persons
30 receiving services from a facility, integrated health care delivery
31 system, group medical practice, or essential community provider
32 functioning under a system operating budget.

33 (1) The chief medical officer shall evaluate the source of margin
34 generation and report violations of this section to the commissioner.

35 (2) The commissioner shall establish and enforce penalties for
36 violations of this section.

37 (3) Penalty payments collected pursuant to violations of this
38 section shall be remitted to the Healthcare Fund for use in the
39 California Healthcare System.

1 (c) Facilities operating under system operating budgets of the
2 California Healthcare System may raise and expend funds from
3 sources other than the system including, but not limited to, private
4 or foundation donors for purposes related to the goals of this
5 division and in accordance with provisions of this division.

6 140216. (a) During the transition, the commissioner shall
7 develop a capital management plan that shall include
8 conflict-of-interest standards and that shall govern all capital
9 investments and acquisitions undertaken in the system. The plan
10 shall include a framework, standards, and guidelines for all of the
11 following:

12 (1) Standards whereby the Office of Health Planning shall
13 oversee, assist in the implementation of, and ensure that the
14 provisions of the capital management plan are enforced.

15 (2) Assessment and prioritization of short- and long-term capital
16 needs of the system on statewide and regional bases.

17 (3) Assessment of capital health care assets and capital health
18 care asset shortages on a regional and statewide basis at the time
19 this division is first implemented.

20 (4) Development by the commissioner of a multiyear system
21 capital development plan that supports the system's goals,
22 priorities, and performance standards and meets the health care
23 needs of the population.

24 (5) Development, as part of the system's capital budget, of
25 regional capital allocations that shall cover a period of three years.

26 (6) Evaluation of, and support for, noninvestment means to
27 meet health care needs, including, but not limited to, improvements
28 in administrative efficiency, care quality, and innovative service
29 delivery, use, adaptation or refurbishment of existing land and
30 property, and identification of publicly owned land or property
31 that may be available to the system and that may meet a capital
32 need.

33 (7) Development and maintenance of capital inventories on a
34 regional basis, including the condition, utilization capacity,
35 maintenance plan and costs, deferred maintenance of existing
36 capital inventory, and excess capital capacity.

37 (8) A process whereby those intending to make capital
38 investments or acquisitions shall prepare a business case for making
39 the investment or acquisition, including the full life-cycle costs of
40 the project or acquisition, an environmental impact report that

1 meets existing state standards, and a demonstration of how the
2 investment or acquisition meets the health care needs of the
3 population it is intended to serve. Acquisitions include, but are not
4 limited to, the acquisition of land, operational property, or
5 administrative office space.

6 (9) Standards and a process whereby the regional planning
7 directors shall evaluate, accept, reject, or modify a business plan
8 for a capital investment or acquisition. Decisions of a regional
9 planning director may be appealed through a dispute resolution
10 process established by the commissioner.

11 (10) Standards for binding project contracts between the system
12 and the party developing a capital project or making a capital
13 acquisition that shall govern all terms and conditions of capital
14 investments and acquisitions, including terms and conditions for
15 grants, loans, lines of credit, and lease-purchase arrangements by
16 the system.

17 (11) A process and standards whereby the Director of the
18 Healthcare Fund shall negotiate terms and conditions of the liens,
19 grants, lines of credit, and lease-purchase arrangements for capital
20 investments and acquisitions by the system. Terms and conditions
21 negotiated by the Director of the Healthcare Fund shall be included
22 in project contracts.

23 (12) A plan for the commissioner and for the regional planning
24 directors to issue requests for proposals and to oversee a process
25 of competitive bidding for the development of capital projects that
26 meet the needs of the system and to fund, partially fund, or
27 participate in seeking funding for, those capital projects.

28 (13) Responses to requests for proposals and competitive bids
29 shall include a description of how a project meets the service needs
30 of the region and addresses the environmental impact report and
31 shall include the full life cycle costs of a capital asset.

32 (14) Requests for proposals shall address how intellectual
33 property will be handled and shall include conflict-of-interest
34 guidelines that meet standards established by the commissioner
35 as part of the capital management plan.

36 (15) A process and standards for periodic revisions in the capital
37 management plan, including annual meetings in each region to
38 discuss the plan and make recommendations for improvements in
39 the plan.

1 (16) Standards for determining when a violation of these
2 provisions shall be referred to the Attorney General for
3 investigation and possible prosecution of the violation.

4 (b) No registered lobbyist shall participate in, or in any way
5 attempt to influence, the request for proposals or competitive bid
6 process.

7 (c) Development of performance standards and a process to
8 monitor and measure performance of those making capital health
9 care investments and acquisitions, including those making capital
10 investments pursuant to a state competitive bidding process.

11 (d) A process for earned autonomy from state capital investment
12 oversight for those who demonstrate the ability to manage capital
13 investment and capital assets effectively in accordance with the
14 system's standards, and standards for loss of earned autonomy
15 when capital management is ineffective.

16 (e) Terms and conditions of capital project oversight by the
17 system shall be based on the performance history of the project
18 developer. Health care providers may earn autonomy from
19 oversight if they demonstrate effective capital planning and project
20 management, pursuant to the goals and guidelines established by
21 the commissioner. Health care providers who do not demonstrate
22 that proficiency shall remain subject to oversight by the regional
23 planning director or shall lose autonomy from oversight.

24 (f) In general, no capital investment may be made from an
25 operating budget. However, guidelines shall be established for the
26 types and levels of small capital investments that may be
27 undertaken from an operating budget without the approval of the
28 regional planning director.

29 (g) Any capital investments required for compliance with
30 federal, state, or local regulatory requirements or quality assurance
31 standards shall be exempt from paragraph (2) of subdivision (c)
32 of Section 140212.

33 140217. (a) Regional planning directors shall develop a
34 regional capital development plan pursuant to the system's capital
35 management plan established by the commissioner. In developing
36 the regional capital development plan, the regional planning
37 director shall do all of the following:

38 (1) Implement the standards and requirements of the capital
39 management plan established by the commissioner.

1 (2) Develop a multiyear regional capital health management
2 plan that supports regional goals and the state capital management
3 plan.

4 (3) Assist regional health care providers to develop capital
5 budget requests pursuant to the regional capital budget plan and
6 the system's capital management plan established by the
7 commissioner.

8 (4) Receive and evaluate capital budget requests from regional
9 health care providers.

10 (5) Establish ranking criteria to assess competing demands for
11 capital.

12 (6) Participate in planning for needed earthquake retrofits.
13 However, the cost of mandatory earthquake retrofits of health care
14 facilities shall not be the responsibility of the system.

15 (7) Conduct ongoing project evaluation to assure that terms and
16 conditions of project funding are met.

17 (b) Services provided as a result of capital investments or
18 acquisitions that do not meet the terms of the regional capital
19 development plan and the capital management plan developed by
20 the commissioner shall not be reimbursed by the system.

21 140218. (a) Assets financed by state grants, loans, lines of
22 credit, and lease-purchase arrangements shall be owned, operated,
23 and maintained by the recipient of the grant, loan, line of credit,
24 or lease-purchase arrangement, according to terms established at
25 the time of issuance of the grant, loan, line of credit, or
26 lease-purchase arrangement.

27 (b) Assets financed under long-term leases with the system shall
28 be transferred to public ownership at the end of the lease, unless
29 the commissioner determines that an alternative disposition would
30 be of greater benefit to the system, in which case the commissioner
31 may authorize an alternative disposition.

32 (c) When an asset, which was in whole or in part financed by
33 the system, is to be sold or transferred by a party that received
34 financing from the system for purchase, lease, or construction of
35 the asset, an impartial estimate of the fair market value of the asset
36 shall be undertaken. The system shall receive a share of the fair
37 market value of the asset at the time of its sale or transfer that is
38 in proportion to the system's original investment. The system may
39 elect to postpone receipt of its share of the value of the asset if the

1 commissioner determines that the postponement meets the needs
2 of the system.

3 140219. The regional planning directors shall make financial
4 information available to the public when the system's contribution
5 to a capital project is greater than twenty-five million dollars
6 (\$25,000,000). Information shall include the purpose of the project
7 or acquisition, its relation to the system's goals, the project budget
8 and the timetable for completion, environmental impact reports,
9 any terms-related conflicts of interest, and performance standards
10 and benchmarks.

11 140220. (a) The commissioner shall establish a budget for the
12 purchase of prescription drugs and durable and nondurable medical
13 equipment for the system.

14 (b) The commissioner shall use the purchasing power of the
15 state to obtain the lowest possible prices for prescription drugs and
16 durable and nondurable medical equipment.

17 (c) The commissioner shall make discounted prices available
18 to all California residents, licensed and accredited providers and
19 facilities under the terms of their licenses and accreditation, health
20 care providers, prescription drug and medical equipment
21 wholesalers, and retailers of products approved for use and included
22 in the benefit package of the system.

23 140221. (a) The commissioner shall establish a budget to
24 support research and innovation that has been recommended by
25 the chief medical officer, the Director of the Office of Health
26 Planning, the patient advocates, the Partnerships for Health, and
27 others as required by the commissioner.

28 (b) The research and innovation budget shall support the goals
29 and standards of the system.

30 140222. (a) The commissioner shall establish a budget to
31 support the training, development, and continuing education of
32 health care providers and the health care workforce needed to meet
33 the health care needs of the population and the goals and standards
34 of the system.

35 (b) During the transition, the commissioner shall determine an
36 appropriate level and duration of spending to support the retraining
37 and job placement of persons who have been displaced from
38 employment as a result of the transition to the system.

1 (c) The commissioner shall establish guidelines for giving
2 special consideration for employment to persons who have been
3 displaced as a result of the transition to the system.

4 140223. (a) The commissioner shall establish a reserve account
5 pursuant to this section.

6 (b) The reserve budget may be used only for purposes set forth
7 in this division.

8 140224. (a) The commissioner shall establish a budget that
9 covers all costs of administering the system.

10 (b) Administrative costs on a systemwide basis shall be limited
11 to 10 percent of system costs within five years of completing the
12 transition to the system.

13 (c) Administrative costs on a systemwide basis shall be limited
14 to 5 percent of system costs within 10 years of completing the
15 transition to the system.

16 (d) The commissioner shall ensure that the percentage of the
17 budget allocated to support system administration stays within the
18 allowable limits and shall continually seek means to lower system
19 administrative costs.

20 (e) The commissioner shall report to the public, the regional
21 planning directors, and others attending the annual system revenue
22 and expenditure conference pursuant to Section 140206 on the
23 costs of administering the system and the regions and shall make
24 recommendations for reducing administrative costs and receive
25 recommendations for reducing administrative costs.

26
27 Article 2. California Healthcare Premium Commission
28

29 140230. (a) There is hereby created the California Healthcare
30 Premium Commission, referred to in this division as the Premium
31 Commission.

32 (b) The Premium Commission shall be composed of the
33 following members:

34 (1) Three health economists with experience relevant to the
35 functions of the Premium Commission. One shall be appointed by
36 the Speaker of the Assembly, one shall be appointed by the Senate
37 Committee on Rules, and one shall be appointed by the Governor.

38 (2) Two representatives of California's business community,
39 with one representing small business. One shall be appointed by

1 the Governor, and the representative of small business shall be
2 appointed by the Senate Committee on Rules.

3 (3) Two representatives from organized labor. One shall be
4 appointed by the Senate Committee on Rules, and one shall be
5 appointed by the Speaker of the Assembly.

6 (4) Two representatives of nonprofit organizations whose
7 principal purpose includes promoting the establishment of a system
8 of universal health care in California. One shall be appointed by
9 the Senate Committee on Rules and one shall be appointed by the
10 Speaker of the Assembly.

11 (5) One representative of a nonprofit advocacy organization
12 with expertise in taxation policy whose principal purpose includes
13 advocating for sustainable funding for the public infrastructure.
14 This person shall be appointed by the Speaker of the Assembly.

15 (6) Two members of the Legislature. One shall be appointed by
16 the Senate Committee on Rules and one shall be appointed by the
17 Speaker of the Assembly.

18 (7) The Executive Officer of the Franchise Tax Board.

19 (8) The Chair of the State Board of Equalization.

20 (9) The Director of the Employment Development Department.

21 (10) The Legislative Analyst.

22 (11) The Secretary of California Health and Human Services.

23 (12) The Director of the Department of Finance.

24 (13) The Controller.

25 (14) The Treasurer.

26 (15) The Lieutenant Governor.

27 (c) Upon appointment, the Premium Commission shall meet at
28 least once a month. The Premium Commission shall elect a chair
29 from its membership during its first meeting. The Premium
30 Commission shall receive public comments during a portion of
31 each of its meetings, and all of its meetings shall be conducted
32 pursuant to the Bagley-Keene Open Meeting Act (Article 9
33 commencing with Section 11120) of Chapter 1 of Part 1 of
34 Division 3 of Title 2 of the Government Code).

35 140231. (a) The Premium Commission shall perform the
36 following functions:

37 (1) Determine the aggregate costs of providing health care
38 coverage pursuant to this division.

39 (2) Develop an equitable and affordable premium structure that
40 will generate adequate revenue for the Healthcare Fund established

1 pursuant to Section 140200 and ensure stable and actuarially sound
2 funding for the system.

3 (b) The Premium Commission shall perform the functions
4 described in this section by considering existing financial
5 simulations and analyses of universal health care proposals,
6 including, but not limited to, the analysis completed by the Lewin
7 Group in January 2005, pertaining to Senate Bill N. 921 of the
8 2003–04 Regular Session.

9 140232. (a) The premium structure developed by the Premium
10 Commission shall satisfy the following criteria:

11 (1) Be means-based and generate adequate revenue to implement
12 this division.

13 (2) To the greatest extent possible, ensure that all income earners
14 and all employers contribute a premium amount that is affordable
15 and that is consistent with existing funding sources for health care
16 in California.

17 (3) Maintain the current ratio for aggregate health care
18 contributions among the traditional health care funding sources,
19 including employers, individuals, government, and other sources.

20 (4) Provide a fair distribution of monetary savings achieved
21 from the establishment of a universal health care system.

22 (5) Coordinate with existing, ongoing funding sources from
23 federal and state programs.

24 (6) Be consistent with state and federal requirements governing
25 financial contributions for persons eligible for existing public
26 programs.

27 (7) Comply with federal requirements.

28 (8) Include an exemption for employers and employees who
29 are subject to a collective bargaining agreement and participate in
30 a Taft-Hartley Trust Fund that pays the employer and employee
31 share of the premium to the Healthcare Fund.

32 (b) The Premium Commission shall seek expert and legal advice
33 regarding the best method to structure premium payments
34 consistent with existing employer-employee health care financing
35 structures.

36 140233. The Premium Commission may take all of the
37 following actions:

38 (a) Obtain grants from, and contract with, individuals and
39 private, local, state, and federal agencies, organizations, and
40 institutions, including institutions of higher education.

1 (b) Receive charitable contributions or any other source of
2 income that may be lawfully received.

3 140234. (a) The Premium Commission may consult with
4 additional persons, advisory entities, governmental agencies,
5 Members of the Legislature, and legislative staff as it deems
6 necessary to perform its functions.

7 (b) The Premium Commission shall seek structured input from
8 representatives of stakeholder organizations, policy institutes, and
9 other persons with expertise in health care, health care financing,
10 or universal health care models in order to ensure that it has the
11 necessary information, expertise, and experience to perform its
12 functions.

13 (c) The Premium Commission shall be supported by a reasonable
14 amount of staff time, which shall be provided by the state agencies
15 with membership on the Premium Commission. The Premium
16 Commission may request data from, and utilize the technical
17 expertise of, other state agencies.

18 140235. (a) On or before January 1, 2014, the Premium
19 Commission shall submit to the Governor and the Legislature a
20 detailed recommendation for a premium structure.

21 (b) The Premium Commission shall submit a draft
22 recommendation to the Governor, Legislature, and the public at
23 least 90 days prior to submission of the final recommendation
24 described in subdivision (a). The Premium Commission shall seek
25 input from the public on the draft recommendation.

26 140236. The Premium Commission shall be funded upon an
27 appropriation by the Legislature in the Budget Act of 2012.

28

29

Article 3. Governmental Payments

30

31 140240. (a) (1) The commissioner shall seek all necessary
32 waivers, exemptions, agreements, or legislation, so that all current
33 federal payments to the state for health care services be paid
34 directly to the system, which shall then assume responsibility for
35 all benefits and services previously paid for by the federal
36 government with those funds.

37 (2) In obtaining the waivers, exemptions, agreements, or
38 legislation, the commissioner shall seek from the federal
39 government a contribution for health care services in California

1 that shall not decrease in relation to the contribution to other states
2 as a result of the waivers, exemptions, agreements, or legislation.

3 (b) (1) The commissioner shall seek all necessary waivers,
4 exemptions, agreements, or legislation, so that all current state
5 payments for health care services shall be paid directly to the
6 system, which shall then assume responsibility for all benefits and
7 services previously paid for by state government with those funds.

8 (2) In obtaining the waivers, exemptions, agreements, or
9 legislation, the commissioner shall seek from the Legislature a
10 contribution for health care services that shall not decrease in
11 relation to state government expenditures for health care services
12 in the year that this division was enacted, except that it may be
13 corrected for change in state gross domestic product, the size and
14 age of population, and the number of residents living below the
15 federal poverty level.

16 (c) The commissioner shall establish formulas for equitable
17 contributions to the system from all California counties and other
18 local government agencies.

19 (d) The commissioner shall seek all necessary waivers,
20 exemptions, agreements, or legislation, so that all county or other
21 local government agency payments shall be paid directly to the
22 system.

23 140241. The system's responsibility for providing health care
24 services shall be secondary to existing federal, state, or local
25 governmental programs for health care services to the extent that
26 funding for these programs is not transferred to the Healthcare
27 Fund or that the transfer is delayed beyond the date on which initial
28 benefits are provided under the system.

29 140242. In order to minimize the administrative burden of
30 maintaining eligibility records for programs transferred to the
31 system, the commissioner shall strive to reach an agreement with
32 federal, state, and local governments in which their contributions
33 to the Healthcare Fund shall be fixed to the rate of change of the
34 state gross domestic product, the size and age of population, and
35 the number of residents living below the federal poverty level.

36 140243. If and to the extent that federal law and regulations
37 allow the transfer of Medi-Cal program funding to the system, the
38 commissioner shall pay from the Healthcare Fund all premiums,
39 deductible payments, and coinsurance for qualified beneficiaries
40 who are receiving benefits pursuant to Chapter 3 (commencing

1 with Section 12000) of Part 3 of Division 9 of the Welfare and
 2 Institutions Code.
 3 140244. If and to the extent that the commissioner obtains
 4 authorization to incorporate Medicare revenues into the Healthcare
 5 Fund, Medicare Part B payments that previously were made by
 6 individuals or the commissioner shall be paid by the system for
 7 all individuals eligible for both the system and the Medicare
 8 Program.

9
 10 Article 4. Federal Preemption

11
 12 140300. (a) The commissioner shall pursue all reasonable
 13 means to secure a repeal or a waiver of any provision of federal
 14 law that preempts any provision of this division.

15 (b) If a repeal or a waiver of law or regulations cannot be
 16 secured, the commissioner shall exercise his or her powers to
 17 promulgate rules and regulations, or seek conforming state
 18 legislation, consistent with federal law, in an effort to best fulfill
 19 the purposes of this division.

20 140301. (a) To the extent permitted by federal law, an
 21 employee entitled to health or related benefits under a contract or
 22 plan that, under federal law, preempts provisions of this division,
 23 shall first seek benefits under that contract or plan before receiving
 24 benefits from the system under this division.

25 (b) No benefits shall be denied under the system created by this
 26 division unless the employee has failed to take reasonable steps
 27 to secure like benefits from the contract or plan, if those benefits
 28 are available.

29 (c) Nothing in this section shall preclude a person from receiving
 30 benefits from the system under this division that are superior to
 31 benefits available to the person under an existing contract or plan.

32 (d) Nothing in this division is intended, nor shall this division
 33 be construed, to discourage recourse to contracts or plans that are
 34 protected by federal law.

35 (e) To the extent permitted by federal law, a health care provider
 36 shall first seek payment from the contract or plan, before submitting
 37 bills to the system.

Article 5. Subrogation

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140302. (a) It is the intent of the Legislature in enacting this division to establish a single public payer for all health care services in the State of California. However, until such time as the role of all other payers for health care services has been terminated, costs for health care services shall be collected from collateral sources whenever health care services provided to an individual are, or may be, covered services under a policy of insurance, health care service plan, or other collateral source available to that individual, or for which the individual has a right of action for compensation to the extent permitted by law.

(b) As used in this article, collateral source includes all of the following:

- (1) Insurance policies written by insurers, including the medical components of automobile, homeowners, and other forms of insurance.
- (2) Health care service plans and pension plans.
- (3) Employers.
- (4) Employee benefit contracts.
- (5) Government benefit programs.
- (6) A judgment for damages for personal injury.
- (7) Any third party who is or may be liable to an individual for health care services or costs.

(c) “Collateral source” does not include either of the following:

- (1) A contract or plan that is subject to federal preemption.
- (2) Any governmental unit, agency, or service, to the extent that subrogation is prohibited by law.

(d) An entity described in subdivision (b) is not excluded from the obligations imposed by this article by virtue of a contract or relationship with a governmental unit, agency, or service.

(e) The commissioner shall attempt to negotiate waivers, seek federal legislation, or make other arrangements to incorporate collateral sources in California into the system.

140303. Whenever an individual receives health care services under the system and he or she is entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source, he or she shall notify the health care provider and provide information identifying the collateral source, the nature and extent of coverage or entitlement, and other relevant information. The

1 health care provider shall forward this information to the
2 commissioner. The individual entitled to coverage, reimbursement,
3 indemnity, or other compensation from a collateral source shall
4 provide additional information as requested by the commissioner.

5 140304. (a) The system shall seek reimbursement from the
6 collateral source for services provided to the individual and may
7 institute appropriate action, including suit, to recover the
8 reimbursement. Upon demand, the collateral source shall pay to
9 the Healthcare Fund the sums it would have paid or expended on
10 behalf of the individual for the health care services provided by
11 the system.

12 (b) In addition to any other right to recovery provided in this
13 article, the commissioner shall have the same right to recover the
14 reasonable value of benefits from a collateral source as provided
15 to the Director of Health Care Services by Article 3.5 (commencing
16 with Section 14124.70) of Chapter 7 of Part 3 of Division 9 of the
17 Welfare and Institutions Code, in the manner so provided.

18 140305. (a) If a collateral source is exempt from subrogation
19 or the obligation to reimburse the system as provided in this article,
20 the commissioner may require that an individual who is entitled
21 to health care services from the source first seek those services
22 from that source before seeking those services from the system.

23 (b) To the extent permitted by federal law, contractual retiree
24 health benefits provided by employers shall be subject to the same
25 subrogation as other contracts, allowing the system to recover the
26 cost of health care services provided to individuals covered by the
27 retiree benefits, unless and until arrangements are made to transfer
28 the revenues of the benefits directly to the system.

29 140306. (a) Default, underpayment, or late payment of any
30 tax or other obligation imposed by this division shall result in the
31 remedies and penalties provided by law, except as provided in this
32 section.

33 (b) Eligibility for benefits under Chapter 4 (commencing with
34 Section 140400) shall not be impaired by any default,
35 underpayment, or late payment of any tax or other obligation
36 imposed by this chapter.

37 140307. The agency and the commissioner shall be exempt
38 from the regulatory oversight and review of the Office of
39 Administrative Law pursuant to Chapter 3.5 (commencing with
40 Section 11340) of Part 1 of Division 3 of Title 2 of the Government

1 Code. Actions taken by the agency, including, but not limited to,
2 the negotiating or setting of rates, fees, or prices, and the
3 promulgation of any and all regulations, shall be exempt from any
4 review by the Office of Administrative Law, except for Sections
5 11344.1, 11344.2, 11344.3, and 11344.6 of the Government Code,
6 addressing the publication of regulations.

7 140308. The agency shall adopt regulations to implement the
8 provisions of this division. The regulations may initially be adopted
9 as emergency regulations in accordance with the Administrative
10 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
11 Part 1 of Division 3 of Title 2 of the Government Code), but those
12 emergency regulations shall be in effect only from the effective
13 date of this division until the conclusion of the transition period.

14
15 CHAPTER 4. ELIGIBILITY
16

17 140400. All California residents shall be eligible for the system.
18 Residency shall be based upon physical presence in the state with
19 the intent to reside. The commissioner shall establish standards
20 and a simplified procedure to demonstrate proof of residency.

21 140401. The commissioner shall establish a procedure to enroll
22 eligible residents and provide each eligible individual with
23 identification that can be used by health care providers to determine
24 eligibility for services.

25 140402. (a) It is the intent of the Legislature for the system to
26 provide health care coverage to California residents who are
27 temporarily out of the state. The commissioner shall determine
28 eligibility standards for residents temporarily out of state for longer
29 than 90 days who intend to return and reside in California and for
30 nonresidents temporarily employed in California. The
31 commissioner may establish financial arrangements with medical
32 providers in other states and foreign countries in order to facilitate
33 coverage for California residents who are temporarily out of the
34 state.

35 (b) Coverage for emergency care obtained out of state shall be
36 at prevailing local rates. Coverage for nonemergency care obtained
37 out of state shall be according to rates and conditions established
38 by the commissioner. The commissioner may require that a resident
39 be transported back to California when prolonged treatment of an

1 emergency condition is necessary and when that transport will not
2 adversely affect a patient's care or condition.

3 140403. Visitors to California shall be billed for all services
4 received under the system. The commissioner may establish
5 intergovernmental arrangements with other states and countries
6 to provide reciprocal coverage for temporary visitors.

7 140404. All persons eligible for health care benefits from
8 California employers but who are working in another jurisdiction
9 shall be eligible for health care benefits under this division provided
10 that they make payments equivalent to the payments they would
11 be required to make if they were residing in California.

12 140404.1. All persons who under an employer-employee
13 contract or under statute are eligible for retiree health care benefits,
14 including retirees who elect to reside outside of California, shall
15 remain eligible for those benefits in accordance with the contract
16 or the statute.

17 140405. Unmarried, unemancipated minors shall be deemed
18 to have the residency of their parent or guardian. If a minor's
19 parents are deceased and a legal guardian has not been appointed,
20 or if a minor has been emancipated by court order, the minor may
21 establish his or her own residency.

22 140406. (a) An individual shall be presumed to be eligible if
23 he or she arrives at a health facility and is unconscious, comatose,
24 or otherwise unable, because of his or her physical or mental
25 condition, to document eligibility or to act on his or her own behalf,
26 or if the patient is a minor, the patient shall be presumed to be
27 eligible, and the health facility shall provide care as if the patient
28 were eligible.

29 (b) Any individual shall be presumed to be eligible when brought
30 to a health facility pursuant to any provision of Section 5150 of
31 the Welfare and Institutions Code.

32 (c) Any individual involuntarily committed to an acute
33 psychiatric facility or to a hospital with psychiatric beds pursuant
34 to Section 5150 of the Welfare and Institutions Code, providing
35 for involuntary commitment, shall be presumed eligible.

36 (d) All health facilities subject to state and federal provisions
37 governing emergency medical treatment shall continue to comply
38 with those provisions.

39 (e) In the event of an influx of people into the state for the
40 purposes of receiving medical care, the commissioner shall

1 establish an eligibility waiting period and other criteria needed to
2 ensure the fiscal stability of the system.

3
4 CHAPTER 5. BENEFITS
5

6 140500. Any eligible individual may choose to receive services
7 under the system from any willing professional health care provider
8 participating in the system. No health care provider may refuse to
9 care for a patient solely on any basis that is specified in the
10 prohibition of employment discrimination contained in the Fair
11 Employment and Housing Act (Part 2.8 (commencing with Section
12 12900) of Division 3 of Title 2 of the Government Code).

13 140500.01. A resident of the state in a family with an annual
14 or monthly net nonexempt household income equal to or less than
15 200 percent of the federal poverty level is eligible for no-cost
16 Medi-Cal and shall be entitled to not less than the full scope of
17 benefits available under the Medi-Cal program, pursuant to Section
18 14021 of, and Article 4 (commencing with Section 14131) of
19 Chapter 7 of Division 9 of, the Welfare and Institutions Code, as
20 provided on January 1, 2010.

21 140501. Covered benefits under this chapter shall include all
22 medical care determined to be medically appropriate by the
23 individual's health care provider, but are subject to limitations set
24 forth in Section 140503. Covered benefits include, but are not
25 limited to, all of the following:

- 26 (a) Inpatient and outpatient health facility services.
- 27 (b) Inpatient and outpatient professional health care provider
28 services by licensed health care professionals.
- 29 (c) Diagnostic imaging, laboratory services, and other diagnostic
30 and evaluative services.
- 31 (d) Durable medical equipment, appliances, and assistive
32 technology, including prosthetics, eyeglasses, and hearing aids
33 and their repair.
- 34 (e) Rehabilitative care.
- 35 (f) Emergency transportation and necessary transportation for
36 health care services for disabled and indigent persons.
- 37 (g) Language interpretation and translation for health care
38 services, including sign language for those unable to speak, or
39 hear, or who are language impaired, and Braille translation or other
40 services for those with no or low vision.

- 1 (h) Child and adult immunizations and preventive care.
- 2 (i) Health education.
- 3 (j) Hospice care.
- 4 (k) Home health care.
- 5 (l) Prescription drugs that are listed on the system's formulary.
- 6 Nonformulary prescription drugs may be included if standards and
- 7 criteria established by the commissioner are met.
- 8 (m) Mental and behavioral health care.
- 9 (n) Dental care.
- 10 (o) Podiatric care.
- 11 (p) Chiropractic care.
- 12 (q) Acupuncture.
- 13 (r) Blood and blood products.
- 14 (s) Emergency care services.
- 15 (t) Vision care.
- 16 (u) Adult day care.
- 17 (v) Case management and coordination to ensure services
- 18 necessary to enable a person to remain safely in the least restrictive
- 19 setting.
- 20 (w) Substance abuse treatment.
- 21 (x) Care of up to 100 days in a skilled nursing facility following
- 22 hospitalization.
- 23 (y) Dialysis.
- 24 (z) Benefits offered by a bona fide church, sect, denomination,
- 25 or organization whose principles include healing entirely by prayer
- 26 or spiritual means provided by a duly authorized and accredited
- 27 practitioner or nurse of that bona fide church, sect, denomination,
- 28 or organization.
- 29 (aa) Chronic disease management.
- 30 (ab) Family planning services and supplies.
- 31 (ac) For persons under 21 years of age, early and periodic
- 32 screening, diagnostic, and treatment services, as defined in Section
- 33 1396d(r) of Title 42 of the United States Code, whether or not
- 34 those services are covered benefits for persons who are 21 years
- 35 of age or older.
- 36 140502. The commissioner may expand benefits beyond the
- 37 minimum benefits described in this chapter when expansion meets
- 38 the intent of this division and when there are sufficient funds to
- 39 cover the expansion.

1 140503. The following health care services shall be excluded
2 from coverage by the system:

3 (a) Health care services determined to have no medical
4 indication by the commissioner and the chief medical officer.

5 (b) Surgery, dermatology, orthodontia, prescription drugs, and
6 other procedures primarily for cosmetic purposes, unless required
7 to correct a congenital defect, restore or correct a part of the body
8 that has been altered as a result of injury, disease, or surgery, or
9 determined to be medically necessary by a qualified, licensed
10 health care provider in the system.

11 (c) Private rooms in inpatient health facilities where appropriate
12 nonprivate rooms are available, unless determined to be medically
13 necessary by a qualified, licensed health care provider in the
14 system.

15 (d) Services of a health care provider or facility that is not
16 licensed or accredited by the state except for approved services
17 provided to a California resident who is temporarily out of the
18 state.

19 140504. (a) During the initial two years of the system's
20 operation, the commissioner shall not impose a deductible payment
21 or copayment other than for treatment by a specialist if no referral
22 was made by the primary care provider pursuant to Section 140601.
23 The commissioner shall determine the amount of the copayment
24 or deductible imposed pursuant to this subdivision. The
25 commissioner and the Healthcare Policy Board shall review the
26 deductible and copayment provisions annually, commencing in
27 the third year of the system's operation, to determine whether they
28 should be included in the system.

29 (b) Commencing in the third year of the system's operation, the
30 commissioner may impose a deductible payment and copayment
31 pursuant to the determination made under subdivision (a), except
32 as specified under subdivisions (c) and (d). The amount of the
33 deductible payment and the copayment combined shall not exceed
34 two hundred fifty dollars (\$250) per person each year and five
35 hundred dollars (\$500) per family each year, except the deductible
36 payment and copayment for treatment by a specialist without a
37 referral from the primary care provider pursuant to Section 140601
38 shall not be subject to this limitation and shall be established by
39 the commissioner.

1 (c) No copayments or deductible payments may be established
2 for preventive care as determined by a patient’s primary care
3 provider.

4 (d) No copayments or deductible payments may be established
5 when prohibited by federal law.

6 (e) No deductible payments or copayments may be imposed on
7 a person who is eligible for benefits under the Medi-Cal program
8 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
9 9 of the Welfare and Institutions Code), except for treatment by a
10 specialist without a referral from the primary care provider pursuant
11 to Section 140601.

12 (f) The commissioner shall establish standards and procedures
13 for waiving copayments or deductible payments for a person who
14 demonstrates, to the commissioner’s satisfaction, that the person
15 lacks the financial means to pay the copayment or deductible.
16 Waivers of copayments or deductible payments shall not affect
17 the reimbursement of health care providers.

18 (g) Any copayments established pursuant to this section and
19 collected by health care providers shall be transmitted to the
20 Treasurer to be deposited to the credit of the Healthcare Fund.

21 (h) Nothing in this division shall be construed to diminish the
22 benefits that an individual has under a collective bargaining
23 agreement.

24 (i) Nothing in this division shall preclude employees from
25 receiving benefits available to them under a collective bargaining
26 agreement or other employee-employer agreement that are superior
27 to benefits under this division.

28
29 CHAPTER 6. DELIVERY OF CARE
30

31 140600. (a) All health care providers licensed or accredited
32 to practice in California may participate in the system.

33 (b) No health care provider whose license or accreditation is
34 suspended or revoked may participate in the system.

35 (c) If a health care provider is on probation, the licensing or the
36 accrediting agency shall monitor the health care provider in
37 question, pursuant to applicable California law. The licensing or
38 accrediting agency shall report to the chief medical officer at
39 intervals established by the chief medical officer, on the status of
40 health care providers who are on probation and on measures

1 undertaken to assist health care providers to return to practice and
2 to resolve complaints made by patients.

3 (d) Health care providers may accept eligible persons for care
4 according to the health care provider's ability to provide services
5 needed by the patient and according to the number of patients a
6 health care provider can treat without compromising safety and
7 care quality. A health care provider may accept patients in the
8 order of time of application.

9 (e) A health care provider shall not refuse to care for a patient
10 solely on any basis that is specified in the prohibition of
11 employment discrimination contained in the Fair Employment and
12 Housing Act (Part 2.8 (commencing with Section 12900) of
13 Division 3 of Title 2 of the Government Code).

14 (f) Choice of health care provider:

15 (1) Persons eligible for health care services under this division
16 may choose a primary care provider.

17 (A) Primary care providers include family practitioners, general
18 practitioners, internists and pediatricians, nurse practitioners and
19 physician assistants practicing under supervision as defined in
20 California codes, and doctors of osteopathy licensed to practice
21 as general doctors.

22 (B) Women may choose an obstetrician-gynecologist, in addition
23 to a primary care provider.

24 (2) Persons who choose to enroll with integrated health care
25 delivery systems, group medical practices, or essential community
26 providers that offer comprehensive services, shall retain
27 membership for at least one year after an initial three-month
28 evaluation period during which time they may withdraw for any
29 reason.

30 (A) The three-month period shall commence on the date when
31 an enrollee first sees a primary care provider.

32 (B) Persons who want to withdraw after the initial three-month
33 period shall request a withdrawal pursuant to dispute resolution
34 procedures established by the commissioner and may request
35 assistance from the patient advocate in the dispute process. The
36 dispute shall be resolved in a timely fashion and shall have no
37 adverse effect on the care a patient receives.

38 (3) Persons needing to change primary care providers because
39 of health care needs that their primary care provider cannot meet
40 may change primary care providers at any time.

1 140601. (a) Primary care providers shall coordinate the care
2 a patient receives or shall ensure that a patient's care is coordinated.

3 (b) (1) Patients shall have a referral from their primary care
4 provider, or from a health care provider rendering care to them in
5 the emergency room or other accredited emergency setting, or
6 from a health care provider treating a patient for an emergency
7 condition in any setting, or from their obstetrician-gynecologist,
8 to see a physician or nonphysician specialist whose services are
9 covered by this division, unless the patient agrees to assume the
10 costs of care or pay a copayment, if implemented by the
11 commissioner pursuant to Section 140504. A referral shall not be
12 required to see a dentist or to see an ophthalmologist or optometrist
13 for a routine vision examination.

14 (2) Referrals shall be based on the medical needs of the patient
15 and on guidelines, which shall be established by the chief medical
16 officer to support clinical decisionmaking.

17 (3) Referrals shall not be restricted or provided solely because
18 of financial considerations. The chief medical officer shall monitor
19 referral patterns and intervene as necessary to assure that referrals
20 are neither restricted nor provided solely because of financial
21 considerations.

22 (4) For the first six months of the system's operation, no
23 specialist referral or copayment shall be required for patients who
24 had been receiving care from a specialist prior to the initiation of
25 the system. Beginning with the seventh month of the system's
26 operation, all patients shall be required to obtain a referral from a
27 primary or emergency care provider for specialty care if the care
28 is to be paid for by the system. No referral is required if a patient
29 pays the full cost of the specialty care and the specialist accepts
30 that payment arrangement.

31 (5) Where referral processes are in place prior to the initiation
32 of the system, the chief medical officer shall review the referral
33 processes to assure that they meet the system's standards for care
34 quality and shall assure needed changes are implemented so that
35 all Californians receive the same standards of care quality and
36 access to specialty care.

37 (6) A specialist may serve as the primary care provider if the
38 patient and the provider agree to this arrangement and if the
39 provider agrees to coordinate the patient's care or to ensure that
40 the care the patient receives is coordinated.

1 (7) The commissioner shall establish or ensure the establishment
2 of a computerized referral registry to facilitate the referral process
3 and to allow a specialist and a patient to easily determine whether
4 a referral has been made pursuant to this division.

5 (8) A patient may appeal the denial of a referral through the
6 dispute resolution procedures established by the commissioner
7 and may request the assistance of the patient advocate during the
8 dispute resolution process.

9 140602. (a) The purpose of the Office of Health Planning is
10 to plan for the short- and long-term health care needs of the
11 population pursuant to the health care and finance standards
12 established by the commissioner and by this division.

13 (b) The office shall be headed by a director appointed by the
14 commissioner. The director shall serve pursuant to provisions of
15 subdivisions (c), (d), and (e) of Section 140100 and subdivisions
16 (j) and (k) of Section 140101.

17 (c) The director shall do all the following:

18 (1) Administer all aspects of the Office of Health Planning.

19 (2) Serve on the Healthcare Policy Board.

20 (3) Establish performance criteria in measurable terms for health
21 care goals in consultation with the chief medical officer, the
22 regional planning directors, and regional medical officers and
23 others with experience in health care outcomes measurement and
24 evaluation.

25 (4) Evaluate the effectiveness of performance criteria in
26 accurately measuring quality of care, administration, and planning.

27 (5) Assist the health care regions to develop operating and
28 capital requests pursuant to health care and financial guidelines
29 established by the commissioner and by this division. In assisting
30 regions, the director shall do all of the following:

31 (A) Identify medically underserved areas and health care service
32 and asset shortages.

33 (B) Identify disparities in health outcomes.

34 (C) Establish conventions for the definition, collection, storage,
35 analysis, and transmission of data for use by the system.

36 (D) Establish electronic systems that support dissemination of
37 information to health care providers and patients about integrated
38 health network and integrated health care delivery systems and
39 community-based health care resources.

1 (E) Support establishment of comprehensive health care
2 databases using uniform methodology that is compatible among
3 the regions and between the regions and the agency.

4 (F) Provide information to support effective regional planning
5 and innovation.

6 (G) Provide information to support interregional planning,
7 including planning for access to specialized centers that perform
8 a high volume of procedures for conditions requiring highly
9 specialized treatments, including emergency and trauma, and other
10 interregional access to needed care, and planning for coordinated
11 interregional capital investment.

12 (H) Provide information for, and participate in, earthquake
13 retrofit planning.

14 (I) Evaluate regional budget requests and make
15 recommendations to the commissioner about regional revenue
16 allocations.

17 (6) Estimate the health care workforce required to meet the
18 health care needs of the population pursuant to the standards and
19 goals established by the commissioner, the costs of providing the
20 needed workforce, and, in collaboration with regional planners,
21 educational institutions, the Governor, and the Legislature, develop
22 short- and long-term plans to meet those needs, including a plan
23 to finance needed training.

24 (7) Estimate the number and types of health facilities required
25 to meet the short- and long-term health care needs of the population
26 and the projected costs of needed facilities. In collaboration with
27 the commissioner, regional planning directors and regional medical
28 officers, the chief medical officer, the Governor, and the
29 Legislature, develop plans to finance and build needed facilities.

30 140603. The Technology Advisory Group shall explore the
31 feasibility and the value to the health of the population of the
32 following electronic initiatives:

33 (a) Establish integrated statewide health care databases to
34 support health care planning and determine which databases should
35 be established on a statewide basis and which should be established
36 on a regional basis.

37 (b) Assure that databases have uniform methodology and formats
38 that are compatible among the regions and between the regions
39 and the agency.

1 (c) Establish mandatory database reporting requirements and
2 penalties for noncompliance. Monitor the effectiveness of reporting
3 and make needed improvements.

4 (d) Establish means for anonymous reporting to the chief
5 medical officer and regional medical officers of medical errors
6 and other related problems, and for anonymous reporting to the
7 commissioner and regional planning directors of problems related
8 to ineffective management, and establish guidelines for the
9 protection of persons coming forward to report these problems.

10 (e) In collaboration with the chief medical officer, the Office
11 of Patient Advocacy, and regional patient advocates, investigate
12 the costs and benefits of electronic and online scheduling systems
13 and means of health care provider-patient communication that
14 allow for electronic visits, and make recommendations to the chief
15 medical officer regarding the use of these concepts in the system.

16 (f) In collaboration with the chief medical officer, establish
17 electronic systems and other means that support the use of
18 standards of care based on clinical efficacy to guide clinical
19 decisionmaking by all who provide services in the system.

20 (g) In collaboration with the chief medical officer, support the
21 development of disease management programs and their use in
22 the system.

23 (h) Establish electronic initiatives that reduce administration
24 costs.

25 (i) Collaborate with the chief medical officer and regional
26 medical officers to assure the development of software systems
27 that link clinical guidelines to individual patient conditions, and
28 guide clinicians through diagnosis and treatment algorithms derived
29 from research based on clinical efficacy and best medical practices.

30 (j) Collaborate with the chief medical officer and regional
31 medical officers to assure the development of software systems
32 that offer health care providers access to guidelines that are
33 appropriate for their specialty and that include current information
34 on prevention and treatment of disease.

35 (k) In collaboration with the Partnerships for Health and regional
36 medical officers, establish Web-based, patient-centered information
37 systems that assist people to promote and maintain health and
38 provide information on health conditions and recent developments
39 in treatment.

1 (l) Establish electronic systems and other means to provide
2 patients with easily understandable information about the
3 performance of health care providers. This shall include, but not
4 be limited to, information about the experience that health care
5 providers have in the field or fields in which they deliver care, the
6 number of years they have practiced in their field and, in the case
7 of medical and surgical procedures, the number of procedures they
8 have performed in their area or areas of specialization.

9 (m) Establish electronic systems that facilitate health care
10 provider continuing medical education that meets licensure
11 requirements.

12 (n) Recommend to the commissioner means to link health care
13 research with the goals and priorities of the system.

14 140604. (a) The Director of the Office of Health Planning
15 shall establish standards for culturally and linguistically competent
16 care, which shall include, but not be limited to, all of the following:

17 (1) State Department of Health Care Services and the
18 Department of Managed Health Care guidelines for culturally and
19 linguistically sensitive care.

20 (2) Medi-Cal Managed Care Division (MMCD) Policy Letters
21 99-01 to 99-04 and MMCD All Plan Letter 99005.

22 (3) Subchapter 5 of the federal Civil Rights Act of 1964 (42
23 U.S.C. Sec. 2000d).

24 (4) United States Department of Health and Human Services'
25 Office of Civil Rights; Title VI of the Civil Rights Act of 1964;
26 Policy Guidance on Prohibition Against National Origin
27 Discrimination as It Affects Persons with Limited English
28 Proficiency (February 1, 2002).

29 (5) United States Department of Health and Human Services'
30 Office of Minority Health; National Standards on Culturally and
31 Linguistically Appropriate Services (CLAS) in Health Care—Final
32 Report (December 22, 2000).

33 (b) The director shall annually evaluate the effectiveness of
34 standards for culturally and linguistically competent care and make
35 recommendations to the commissioner, the Office of Patient
36 Advocacy, and the chief medical officer for needed improvements.
37 In evaluating the standards for culturally and linguistically sensitive
38 care, the director shall establish a process to receive concerns and
39 comments from consumers.

1 (c) The director shall pursue available federal financial
2 participation for the provision of a language services program that
3 supports the system's goals.

4 140605. (a) Within the agency, the commissioner shall
5 establish the Office of Health Care Quality.

6 (b) The office shall be headed by the chief medical officer who
7 shall serve pursuant to provisions of subdivisions (c), (d), and (e)
8 of Section 140100 and subdivisions (j) and (k) of Section 140101
9 regarding qualifications for appointed officers of the system.

10 (c) The purpose of the Office of Health Care Quality is the
11 following:

12 (1) Support the delivery of high quality, coordinated health care
13 services that enhance health; prevent illness, disease, and disability;
14 slow the progression of chronic diseases; and improve personal
15 health management.

16 (2) Promote efficient care delivery.

17 (3) Establish processes for measuring, monitoring, and
18 evaluating the quality of care delivered in the system, including
19 the performance of individual health care providers.

20 (4) Establish means to make changes needed to improve health
21 care quality, including innovative programs that improve quality.

22 (5) Promote patient, health care provider, and employer
23 satisfaction with the system.

24 (6) Assist regional planning directors and medical officers in
25 the development and evaluation of regional operating and capital
26 budget requests.

27 140606. (a) In supporting the goals of the Office of Health
28 Care Quality, the chief medical officer shall do all of the following:

29 (1) Administer all aspects of the office.

30 (2) Serve on the Healthcare Policy Board.

31 (3) Collaborate with regional medical officers, regional planning
32 directors, health care providers, consumers, the Director of the
33 Office of Health Planning, the patient advocate of the Office of
34 Patient Advocacy, and directors of Partnerships for Health to
35 develop community-based networks of solo providers, small group
36 practices, essential community providers, and providers of patient
37 care support services in order to offer comprehensive,
38 multidisciplinary, coordinated services to patients.

39 (4) Establish standards of care based on clinical efficacy for the
40 system that shall serve as guidelines to support health care

1 providers in the delivery of high quality care. Standards shall be
2 based on the best evidence available at the time and shall be
3 continually updated. Standards are intended to support the clinical
4 judgment of individual health care providers, not to replace it, and
5 to support clinical decisions based on the needs of individual
6 patients.

7 (b) In establishing standards, the chief medical officer shall do
8 all of the following:

9 (1) Draw on existing standards established by California health
10 care institutions, on peer-created standards, and on standards
11 developed by other institutions that have had a positive impact on
12 care quality, such as the Centers for Disease Control and
13 Prevention, the National Quality Forum, and the Agency for Health
14 Care Quality and Research.

15 (2) Collaborate with regional medical officers in establishing
16 regional goals, priorities, and a timetable for implementation of
17 standards of care.

18 (3) Assure a process for patients to provide their views on
19 standards of care to the patient advocate of the Office of Patient
20 Advocacy who shall report those views to the chief medical officer.

21 (4) Collaborate with the Director of the Office of Health
22 Planning and regional medical officers to support the development
23 of computer software systems that link clinical guidelines to
24 individual patient conditions, guide clinicians through diagnosis
25 and treatment algorithms based on research and best medical
26 practices based on clinical efficacy, offer access to guidelines
27 appropriate to each medical specialty and to current information
28 on disease prevention and treatment, and that support continuing
29 medical education.

30 (5) Where referral processes for access to specialty care are in
31 place prior to the initiation of the system, the chief medical officer
32 shall review the referral processes to assure that they meet the
33 system's standards for care quality and shall ensure that needed
34 changes are implemented, so that all Californians receive the same
35 standards of care quality.

36 (c) In collaboration with the Director of the Office of Health
37 Planning and regional medical officers, the chief medical officer
38 shall implement means to measure and monitor the quality of care
39 delivered in the system. Monitoring systems shall include, but
40 shall not be limited to, peer and patient performance reviews.

1 (d) The chief medical officer shall establish means to support
2 individual health care providers and health systems in correcting
3 quality of care problems, including timeframes for making needed
4 improvements and means to evaluate the effectiveness of
5 interventions.

6 (e) In collaboration with regional medical officers, regional
7 planning directors, and the Director of the Office of Health
8 Planning, the chief medical officer shall establish means to identify
9 medical errors and their causes and develop plans to prevent them.
10 Means shall include a process for anonymous reporting of errors
11 and guidelines to protect those who report the errors against
12 recrimination, including job demotion, promotion discrimination,
13 or job loss.

14 (f) The chief medical officer shall convene an annual statewide
15 conference to discuss medical errors that occurred during the year,
16 their causes, means to prevent errors, and the effectiveness of
17 efforts to decrease errors.

18 (g) The chief medical officer shall recommend to the
19 commissioner a benefits package based on clinical efficacy for the
20 system, including priorities for needed benefit improvements. In
21 making recommendations, the chief medical officer shall do all of
22 the following:

- 23 (1) Identify safe and effective treatments.
- 24 (2) Evaluate and draw on existing benefit packages.
- 25 (3) Receive comments and recommendations from health care
26 providers about benefits that meet the needs of their patients.
- 27 (4) Receive comments and recommendations made directly by
28 patients or indirectly through the Office of Patient Advocacy.
- 29 (5) Identify and recommend to the commissioner and the
30 Healthcare Policy Board innovative approaches to health
31 promotion, disease and injury prevention, education, research, and
32 care delivery for possible inclusion in the benefit package.
- 33 (6) Identify complementary and alternative modalities that have
34 been shown by the National Institutes of Health, Division of
35 Complementary and Alternative Medicine to be safe and effective
36 for possible inclusion as covered benefits.
- 37 (7) Recommend to the commissioner and update as appropriate,
38 pharmaceutical and durable and nondurable medical equipment
39 formularies based on clinical efficacy. In establishing the
40 formularies, the chief medical officer shall establish a Pharmacy

- 1 and Therapeutics Committee composed of pharmacy and health
2 care providers, representatives of health facilities and organizations
3 having system formularies in place at the time the system is
4 implemented, and other experts that shall do all the following:
- 5 (A) Identify safe and effective pharmaceutical agents for use in
6 the system.
- 7 (B) Draw on existing standards and formularies.
- 8 (C) Identify experimental drugs and drug treatment protocols
9 for possible inclusion in the formulary.
- 10 (D) Review formularies in a timely fashion to ensure that safe
11 and effective drugs are available and that unsafe drugs are removed
12 from use.
- 13 (E) Assure the timely dissemination of information needed to
14 prescribe safely and effectively to all California health care
15 providers and the development and utilization of electronic
16 dispensing systems that decrease pharmaceutical dispensing errors.
- 17 (8) Establish standards and criteria and a process for health care
18 providers to seek authorization for prescribing pharmaceutical
19 agents and durable and nondurable medical equipment that are not
20 included in the system's formulary. No standard or criteria shall
21 impose an undue administrative burden on patients or health care
22 providers, including pharmacies and pharmacists, and none shall
23 delay care a patient needs.
- 24 (9) Develop standards and criteria and a process for health care
25 providers to request authorization for services and treatments,
26 including experimental treatments that are not included in the
27 system's benefit package.
- 28 (A) Where such processes are in place when the system is
29 initiated, the chief medical officer shall review those processes to
30 ensure that they meet the system's standards for care quality and
31 shall ensure that needed changes are implemented so that all
32 Californians receive the same standards of care quality.
- 33 (B) No standard or criteria shall impose an undue administrative
34 burden on a health care provider or a patient and none shall delay
35 the care a patient needs.
- 36 (10) In collaboration with the Director of the Office of Health
37 Planning, regional planning directors and regional medical officers,
38 identify on a regional basis appropriate ratios of general medical
39 providers to specialty medical providers and appropriate ratios of

1 medical providers to patients in order to meet the health care needs
2 of the population and the goals of the system.

3 (11) Recommend to the commissioner and to the Payments
4 Board, financial and nonfinancial incentives and other means to
5 achieve recommended provider ratios.

6 (12) Collaborate with the Director of the Office of Health
7 Planning and regional medical officers and patient advocates in
8 the development of electronic initiatives, pursuant to Section
9 140603.

10 (13) Collaborate with the commissioner, the regional medical
11 officers, and the directors of the Payments Board and the
12 Healthcare Fund to formulate a health care provider reimbursement
13 model that promotes the delivery of coordinated, high quality
14 health care services in all sectors of the system and creates financial
15 and other incentives for the delivery of high quality health care.

16 (14) Establish or assure the establishment of continuing medical
17 education programs about advances in the delivery of high quality
18 health care.

19 (15) Annually report to the commissioner, the Healthcare Policy
20 Board, and the public on the quality of health care delivered in the
21 system, including improvements that have been made and problems
22 that have been identified during the year, goals for care
23 improvement in the coming year, and plans to meet these goals.

24 (h) No person working within the agency or a member of the
25 Pharmacy and Therapeutics Committee or serving as a consultant
26 to the agency or to the Pharmacy and Therapeutics Committee,
27 may receive fees or remuneration of any kind from a
28 pharmaceutical company.

29 140607. (a) The patient advocate of the Office of Patient
30 Advocacy, in collaboration with the chief medical officer, the
31 regional patient advocates, medical officers, and planning directors
32 shall establish a program in the agency and in each region called
33 the Partnerships for Health.

34 (b) The purpose of the Partnerships for Health is to improve
35 health through community health initiatives, to support the
36 development of innovative means to improve health care quality,
37 to promote efficient coordinated care delivery, and to educate the
38 public about the following:

39 (1) Personal maintenance of health.

40 (2) Prevention of disease.

1 (3) Improvement in communication between patients and
2 providers.

3 (4) Improving quality of care.

4 (c) The patient advocate shall work with the community and
5 health care providers in proposing Partnerships for Health projects
6 and in developing project budget requests that shall be included
7 in the regional budget request to the commissioner.

8 (d) In developing educational programs, the Partnerships for
9 Health shall collaborate with educators in the region.

10 (e) Partnerships for Health shall support the coordination of
11 system and public health programs.

12 140610. (a) The patient advocate of the Office of Patient
13 Advocacy, in consultation with the chief medical officer, shall
14 establish a grievance system for all grievances involving the delay,
15 denial, or modification of health care services. The patient advocate
16 shall do all of the following with regard to the grievance regarding
17 delay, denial, or modification of health care services:

18 (1) Establish and maintain a grievance system approved by the
19 commissioner under which enrollees of the system may submit
20 their grievances to the system. The system shall provide reasonable
21 procedures that shall ensure adequate consideration of enrollee
22 grievances and rectification when appropriate.

23 (2) Inform enrollees upon enrollment in the system and annually
24 hereafter of the procedure for processing and resolving grievances.
25 The information shall include the location and telephone number
26 where grievances may be submitted.

27 (3) Provide printed and electronic access for enrollees who wish
28 to register grievances. The forms used by the system shall be
29 approved by the commissioner in advance as to format.

30 (4) (A) Provide for a written acknowledgment within five
31 calendar days of the receipt of a grievance. Grievances received
32 by telephone, by facsimile, by e-mail, or online through the
33 system’s Internet Web site that are resolved by the next business
34 day following receipt are exempt from the requirements of this
35 subparagraph and paragraph (5). The acknowledgment shall advise
36 the complainant of the following:

37 (i) That the grievance has been received.

38 (ii) The date of receipt.

39 (iii) The name, telephone number, and address of the system
40 representative who may be contacted about the grievance.

- 1 (B) The patient advocate shall maintain a log of all grievances.
2 The log shall be periodically reviewed by the patient advocate and
3 shall include the following information for each complaint:
4 (i) The date of the call.
5 (ii) The name of the enrollee.
6 (iii) The enrollee's system identification number.
7 (iv) The nature of the grievance.
8 (v) The nature of the resolution.
9 (vi) The name of the system representative who took the call
10 and resolved the grievance.
- 11 (5) Provide enrollees of the system with written responses to
12 grievances, with a clear and concise explanation of the reasons for
13 the system's response. The system response shall describe the
14 criteria used and the clinical reasons for its decision, including all
15 criteria and clinical reasons related to medical necessity.
- 16 (6) Keep in its files copies of all grievances, and the responses
17 thereto, for a period of five years.
- 18 (7) Establish and maintain an Internet Web site that shall provide
19 an online form that enrollees of the system can use to file with a
20 grievance online.
- 21 (b) In any case determined by the patient advocate to be a case
22 involving an imminent and serious threat to the health of the
23 enrollee, including, but not limited to, severe pain or the potential
24 loss of life, limb, or major bodily function, or in any other case
25 where the patient advocate determines that an earlier review is
26 warranted, an enrollee shall not be required to complete the
27 grievance process.
- 28 (c) If the enrollee is a minor, or is incompetent or incapacitated,
29 the parent, guardian, conservator, relative, or other designee of the
30 enrollee, as appropriate, may submit the grievance to the patient
31 advocate as a designated agent of the enrollee. Further, a health
32 care provider may join with, or otherwise assist, an enrollee, or
33 the agent, to submit the grievance to the patient advocate. In
34 addition, following submission of the grievance to the patient
35 advocate, the enrollee, or the agent, may authorize the health care
36 provider to assist, including advocating on behalf of the enrollee.
37 For purposes of this section, a "relative" includes the parent,
38 stepparent, spouse, domestic partner, adult son or daughter,
39 grandparent, brother, sister, uncle, or aunt of the enrollee.

1 (d) The patient advocate shall review the written documents
2 submitted with the enrollee's grievance. The patient advocate may
3 ask for additional information, and may hold an informal meeting
4 with the involved parties, including health care providers who have
5 joined in submitting the grievance or who are otherwise assisting
6 or advocating on behalf of the enrollee. If after reviewing the
7 record, the patient advocate concludes that the grievance, in whole
8 or in part, is eligible for review under the independent medical
9 review system, the patient advocate shall immediately notify the
10 enrollee of that option and shall, if requested orally or in writing,
11 assist the enrollee in participating in the independent medical
12 review system.

13 (e) The patient advocate shall send a written notice of the final
14 disposition of the grievance, and the reasons therefor, to the
15 enrollee, to any health care provider that has joined with or is
16 otherwise assisting the enrollee, and to the commissioner within
17 30 calendar days of receipt of the grievance, unless the patient
18 advocate, in his or her discretion, determines that additional time
19 is reasonably necessary to fully and fairly evaluate the grievance.
20 In any case not eligible for independent medical review, the patient
21 advocate's written notice shall include, at a minimum, the
22 following:

23 (1) A summary of findings and the reasons why the patient
24 advocate found the system to be, or not to be, in compliance with
25 any applicable laws, regulations, or orders of the commissioner.

26 (2) A discussion of the patient advocate's contact with any
27 health care provider, or any other independent expert relied on by
28 the patient advocate, along with a summary of the views and
29 qualifications of that health care provider or expert.

30 (3) If the enrollee's grievance is sustained in whole or in part,
31 information about any corrective action taken.

32 (f) The patient advocate's order shall be binding on the system.

33 (g) The patient advocate shall establish and maintain a system
34 of aging of grievances that are pending and unresolved for 30 days
35 or more that shall include a brief explanation of the reasons each
36 grievance is pending and unresolved for 30 days or more.

37 (h) The grievance or resolution procedures authorized by this
38 section shall be in addition to any other procedures that may be
39 available to any person, and failure to pursue, exhaust, or engage

1 in the procedures described in this section shall not preclude the
2 use of any other remedy provided by law.

3 (i) Nothing in this section shall be construed to allow the
4 submission to the patient advocate of any health care provider
5 grievance under this section. However, as part of a health care
6 provider’s duty to advocate for medically appropriate health care
7 for his or her patients pursuant to Sections 510 and 2056 of the
8 Business and Professions Code, nothing in this subdivision shall
9 be construed to prohibit a health care provider from contacting
10 and informing the patient advocate about any concerns he or she
11 has regarding compliance with or enforcement of this division.

12 140612. (a) The patient advocate shall establish an independent
13 medical review system to act as an independent, external medical
14 review process for the system to provide timely examinations of
15 disputed health care services and coverage decisions regarding
16 experimental and investigational therapies to ensure the system
17 provides efficient, appropriate, high quality health care, and that
18 the system is responsive to enrollee disputes.

19 (b) For the purposes of this section, “disputed health care
20 service” means any health care service eligible for coverage and
21 payment under the system that has been denied, modified, or
22 delayed by a decision of the system, or by one of its contracting
23 health care providers, in whole or in part due to a finding that the
24 service is not medically necessary. A decision regarding a disputed
25 health care service relates to the practice of medicine and is not a
26 coverage decision. If the system, or one of its contracting providers,
27 issues a decision denying, modifying, or delaying health care
28 services, based in whole or in part on a finding that the proposed
29 health care services are not a covered benefit under the system,
30 the statement of decision shall clearly specify the provisions of
31 the system that exclude coverage.

32 (c) For the purposes of this section, “coverage decision” means
33 the approval or denial of the system, or by one of its contracting
34 entities, substantially based on a finding that the provision of a
35 particular service is included or excluded as a covered benefit
36 under the terms and conditions of the system.

37 (d) Coverage decisions regarding experimental or investigational
38 therapies for individual enrollees who meet all of the following
39 criteria are eligible for review by the independent medical review
40 system:

1 (1) (A) The enrollee has a life-threatening or seriously
2 debilitating condition.

3 (B) For purposes of this section, “life-threatening” means either
4 or both of the following:

5 (i) Diseases or conditions where the likelihood of death is high
6 unless the course of the disease is interrupted.

7 (ii) Diseases or conditions with potentially fatal outcomes, where
8 the end point of clinical intervention is survival.

9 (C) For purposes of this section, “seriously debilitating” means
10 diseases or conditions that cause major irreversible morbidity.

11 (2) The enrollee’s physician certifies that the enrollee has a
12 condition, as defined in paragraph (1), for which standard therapies
13 have not been effective in improving the condition of the enrollee,
14 for which standard therapies would not be medically appropriate
15 for the enrollee, or for which there is no more beneficial standard
16 therapy covered by the system than the therapy proposed pursuant
17 to paragraph (3).

18 (3) Either (A) the enrollee’s physician, who is under contract
19 with the system, has recommended a drug, device, procedure, or
20 other therapy that the physician certifies in writing is likely to be
21 more beneficial to the enrollee than any available standard
22 therapies, or (B) the enrollee, or the enrollee’s physician who is a
23 licensed, board-certified or board-eligible physician qualified to
24 practice in the area of practice appropriate to treat the enrollee’s
25 condition, has requested a therapy that, based on two documents
26 from the medical and scientific evidence, is likely to be more
27 beneficial for the enrollee than any available standard therapy. The
28 physician certification pursuant to this section shall include a
29 statement of the evidence relied upon by the physician in certifying
30 his or her recommendation. Nothing in this subdivision shall be
31 construed to require the system to pay for the services of a
32 nonparticipating physician provided pursuant to this division, that
33 are not otherwise covered pursuant to the system’s benefits
34 package.

35 (4) The enrollee has been denied coverage by the system for a
36 drug, device, procedure, or other therapy recommended or
37 requested pursuant to paragraph (3).

38 (5) The specific drug, device, procedure, or other therapy
39 recommended pursuant to paragraph (3) would be a covered

1 service, except for the system’s determination that the therapy is
2 experimental or investigational.

3 (e) (1) All enrollee grievances involving a disputed health care
4 service are eligible for review under the independent medical
5 review system if the requirements of this section are met. If the
6 patient advocate finds that a grievance involving a disputed health
7 care service does not meet the requirements of this section for
8 review under the independent medical review system, the enrollee’s
9 grievance shall be treated as a request for the patient advocate to
10 review the grievance. All other enrollee grievances, including
11 grievances involving coverage decisions, remain eligible for review
12 by the patient advocate.

13 (2) In any case in which an enrollee or health care provider
14 asserts that a decision to deny, modify, or delay health care services
15 was based, in whole or in part, on consideration of medical
16 appropriateness, the patient advocate shall have the final authority
17 to determine whether the grievance is more properly resolved
18 pursuant to an independent medical review as provided under this
19 section.

20 (3) The patient advocate shall be the final arbiter when there is
21 a question as to whether an enrollee grievance is a disputed health
22 care service or a coverage decision. The patient advocate shall
23 establish a process to complete an initial screening of an enrollee
24 grievance. If there appears to be any medical appropriateness issue,
25 the grievance shall be resolved pursuant to an independent medical
26 review.

27 (f) For purposes of this chapter, an enrollee may designate an
28 agent to act on his or her behalf. The agent may join with or
29 otherwise assist the enrollee in seeking an independent medical
30 review, and may advocate on behalf of the enrollee.

31 (g) The independent medical review process authorized by this
32 section is in addition to any other procedures or remedies that may
33 be available.

34 (h) The Office of Patient Advocacy shall prominently display
35 in every relevant informational brochure, on copies of the system’s
36 procedures for resolving grievances, on letters of denials issued
37 by either the system or its contracting providers, on the grievance
38 forms, and on all written responses to grievances, information
39 concerning the right of an enrollee to request an independent
40 medical review in cases where the enrollee believes that health

1 care services have been improperly denied, modified, or delayed
2 by the system, or by one of its contracting providers.

3 (i) An enrollee may apply to the patient advocate for an
4 independent medical review when all of the following conditions
5 are met:

6 (1) (A) The enrollee's health care provider has recommended
7 a health care service as medically appropriate.

8 (B) The enrollee has received urgent care or emergency services
9 that a health care provider determined was medically appropriate.

10 (C) The enrollee seeks coverage for experimental or
11 investigational therapies.

12 (D) The enrollee, in the absence of a health care provider
13 recommendation under subparagraph (A) or the receipt of urgent
14 care or emergency services by a health care provider under
15 subparagraph (B), has been seen by a system health care provider
16 for the diagnosis or treatment of the medical condition for which
17 the enrollee seeks independent review. The system shall expedite
18 access to a system health care provider upon request of an enrollee.
19 The system health care provider need not recommend the disputed
20 health care service as a condition for the enrollee to be eligible for
21 an independent medical review.

22 (2) The disputed health care service has been denied, modified,
23 or delayed by the system, or by one of its contracting providers,
24 based in whole or in part on a decision that the health care service
25 is not medically appropriate.

26 (3) The enrollee has filed a grievance with the patient advocate
27 and the disputed decision is upheld or the grievance remains
28 unresolved after 30 days. The enrollee shall not be required to
29 participate in the system's grievance process for more than 30
30 days. In the case of a grievance that requires expedited review, the
31 enrollee shall not be required to participate in the system's
32 grievance process for more than three days.

33 (j) An enrollee may apply to the patient advocate for an
34 independent medical review of a decision to deny, modify, or delay
35 health care services, based in whole or in part on a finding that the
36 disputed health care services are not medically appropriate, within
37 six months of any of the qualifying periods or events. The patient
38 advocate may extend the application deadline beyond six months
39 if the circumstances of a case warrant the extension.

1 (k) The enrollee shall pay no application or processing fees of
2 any kind.

3 (l) Upon notice from the patient advocate that the enrollee has
4 applied for an independent medical review, the system or its
5 contracting providers shall provide to the independent medical
6 review organization designated by the patient advocate a copy of
7 all of the following documents within three business days of the
8 system's receipt of the patient advocate's notice of a request by
9 an enrollee for an independent medical review:

10 (1) (A) A copy of all of the enrollee's medical records in the
11 possession of the system or its contracting providers relevant to
12 each of the following:

13 (i) The enrollee's medical condition.

14 (ii) The health care services being provided by the system and
15 its contracting providers for the condition.

16 (iii) The disputed health care services requested by the enrollee
17 for the condition.

18 (B) Any newly developed or discovered relevant medical records
19 in the possession of the system or its contracting providers after
20 the initial documents are provided to the independent medical
21 review organization shall be forwarded immediately to the
22 independent medical review organization. The system shall
23 concurrently provide a copy of medical records required by this
24 subparagraph to the enrollee or the enrollee's health care provider,
25 if authorized by the enrollee, unless the offer of medical records
26 is declined or otherwise prohibited by law. The confidentiality of
27 all medical record information shall be maintained pursuant to
28 applicable state and federal laws.

29 (2) A copy of all information provided to the enrollee by the
30 system and any of its contracting providers concerning their
31 decisions regarding the enrollee's condition and care, and a copy
32 of any materials the enrollee or the enrollee's health care provider
33 submitted to the system and to the system's contracting providers
34 in support of the enrollee's request for disputed health care service.
35 This documentation shall include the written response to the
36 enrollee's grievance. The confidentiality of any enrollee medical
37 information shall be maintained pursuant to applicable state and
38 federal laws.

39 (3) A copy of any other relevant documents or information used
40 by the system or its contracting providers in determining whether

1 disputed health care services should have been provided, and any
2 statements by the system and its contracting providers explaining
3 the reasons for the decision to deny, modify, or delay disputed
4 health care services on the basis of medical necessity. The system
5 shall concurrently provide a copy of documents required by this
6 paragraph, except for any information found by the patient advocate
7 to be legally privileged information, to the enrollee and the
8 enrollee's health care provider.

9 The patient advocate and the independent review organization
10 shall maintain the confidentiality of any information found by the
11 patient advocate to be the proprietary information of the system.

12 140614. (a) If there is an imminent and serious threat to the
13 health of the enrollee, all necessary information and documents
14 shall be delivered to an independent medical review organization
15 within 24 hours of approval of the request for review. In reviewing
16 a request for review, the patient advocate may waive the
17 requirement that the enrollee follow the system's grievance process
18 in extraordinary and compelling cases, if the patient advocate finds
19 that the enrollee has acted reasonably.

20 (b) The patient advocate shall expeditiously review requests
21 and immediately notify the enrollee in writing as to whether the
22 request for an independent medical review has been approved, in
23 whole or in part, and, if not approved, the reasons therefor. The
24 system shall promptly issue a notification to the enrollee, after
25 submitting all of the required material to the independent medical
26 review organization that includes an annotated list of documents
27 submitted and offer the enrollee the opportunity to request copies
28 of those documents from the system. The patient advocate shall
29 promptly approve an enrollee's request whenever the system has
30 agreed that the case is eligible for an independent medical review.
31 To the extent an enrollee's request for independent review is not
32 approved by the patient advocate, the enrollee's request shall be
33 treated as an immediate request for the patient advocate to review
34 the grievance.

35 (c) An independent medical review organization shall conduct
36 the review in accordance with a process approved by the patient
37 advocate. The review shall be limited to an examination of the
38 medical necessity of the disputed health care services and shall
39 not include any consideration of coverage decisions or other issues.

1 (d) The patient advocate shall contract with one or more
2 independent medical review organizations in the state to conduct
3 reviews for purposes of this section. The independent medical
4 review organizations shall be independent of the system. The
5 patient advocate may establish additional requirements, including
6 conflict-of-interest standards, consistent with the purposes of this
7 section that an organization shall be required to meet in order to
8 qualify for participation in the independent medical review system
9 and to assist the patient advocate in carrying out its responsibilities.

10 (e) The independent medical review organizations and the
11 medical professionals retained to conduct reviews shall be deemed
12 to be medical consultants for purposes of Section 43.98 of the Civil
13 Code.

14 (f) The independent medical review organization, any experts
15 it designates to conduct a review, or any officer, patient advocate,
16 or employee of the independent medical review organization shall
17 not have any material professional, familial, or financial affiliation,
18 as determined by the patient advocate, with any of the following:

19 (1) The system.

20 (2) Any officer or employee of the system.

21 (3) A physician, the physician's medical group, or the
22 independent practice association involved in the health care service
23 in dispute.

24 (4) The facility or institution at which either the proposed health
25 care service, or the alternative service, if any, recommended by
26 the system, would be provided.

27 (5) The development or manufacture of the principal drug,
28 device, procedure, or other therapy proposed by the enrollee whose
29 treatment is under review, or the alternative therapy, if any,
30 recommended by the system.

31 (6) The enrollee or the enrollee's immediate family.

32 (g) In order to contract with the patient advocate for purposes
33 of this section, an independent medical review organization shall
34 meet all of the requirements pursuant to subdivision (d) of Section
35 1374.32.

36 140616. (a) Upon receipt of information and documents related
37 to a case, the medical professional reviewer or reviewers selected
38 to conduct the review by the independent medical review
39 organization shall promptly review all pertinent medical records
40 of the enrollee, provider reports, as well as any other information

1 submitted to the organization as authorized by the patient advocate
2 or requested from any of the parties to the dispute by the reviewers.
3 If reviewers request information from any of the parties, a copy
4 of the request and the response shall be provided to all of the
5 parties. The reviewer or reviewers shall also review relevant
6 information related to the criteria set forth in subdivision (b).

7 (b) Following its review, the reviewer or reviewers shall
8 determine whether the disputed health care service was medically
9 appropriate based on the specific medical needs of the patient and
10 any of the following:

11 (1) Peer-reviewed scientific and medical evidence regarding
12 the effectiveness of the disputed service.

13 (2) Nationally recognized professional standards.

14 (3) Expert opinion.

15 (4) Generally accepted standards of medical practice.

16 (5) Treatments likely to provide a benefit to an enrollee for
17 conditions for which other treatments are not clinically efficacious.

18 (c) The organization shall complete its review and make its
19 determination in writing, and in layperson's terms to the maximum
20 extent practicable, within 30 days of the receipt of the application
21 for review and supporting documentation, or within less time as
22 prescribed by the patient advocate. If the disputed health care
23 service has not been provided and the enrollee's health care
24 provider or the patient advocate certifies in writing that an
25 imminent and serious threat to the health of the enrollee may exist,
26 including, but not limited to, serious pain, the potential loss of life,
27 limb, or major bodily function, or the immediate and serious
28 deterioration of the health of the enrollee, the analyses and
29 determinations of the reviewers shall be expedited and rendered
30 within three days of the receipt of the information. Subject to the
31 approval of the patient advocate, the deadlines for analyses and
32 determinations involving both regular and expedited reviews may
33 be extended by the patient advocate for up to three days in
34 extraordinary circumstances or for good cause.

35 (d) The medical professionals' analyses and determinations
36 shall state whether the disputed health care service is medically
37 appropriate. Each analysis shall cite the enrollee's medical
38 condition, the relevant documents in the record, and the relevant
39 findings associated with the provisions of subdivision (b) to support
40 the determination. If more than one medical professional reviews

1 the case, the recommendation of the majority shall prevail. If the
2 medical professionals reviewing the case are evenly split as to
3 whether the disputed health care service should be provided, the
4 decision shall be in favor of providing the service.

5 (e) The independent medical review organization shall provide
6 the patient advocate, the system, the enrollee, and the enrollee's
7 health care provider with the analyses and determinations of the
8 medical professionals reviewing the case, and a description of the
9 qualifications of the medical professionals. The independent
10 medical review organization shall keep the names of the reviewers
11 confidential in all communications with entities or individuals
12 outside the independent medical review organization, except in
13 cases where the reviewer is called to testify and in response to
14 court orders. If more than one medical professional reviewed the
15 case and the result was differing determinations, the independent
16 medical review organization shall provide each of the separate
17 reviewer's analyses and determinations.

18 (f) The patient advocate shall immediately adopt the
19 determination of the independent medical review organization and
20 shall promptly issue a written decision to the parties that shall be
21 binding on the system.

22 (g) After removing the names of the parties, including, but not
23 limited to, the enrollee and all medical providers, the patient
24 advocate's decisions adopting a determination of an independent
25 medical review organization shall be made available by the patient
26 advocate to the public upon request, at the patient advocate's cost
27 and after considering applicable laws governing disclosure of
28 public records, confidentiality, and personal privacy.

29 140618. (a) Upon receiving the decision adopted by the patient
30 advocate that a disputed health care service is medically
31 appropriate, the system shall promptly implement the decision. In
32 the case of reimbursement for services already rendered, the health
33 care provider or enrollee, whichever applies, shall be paid within
34 five working days. In the case of services not yet rendered, the
35 system shall authorize the services within five working days of
36 receipt of the written decision from the patient advocate, or sooner
37 if appropriate for the nature of the enrollee's medical condition,
38 and shall inform the enrollee and health care provider of the
39 authorization.

1 (b) The system shall not engage in any conduct that has the
2 effect of prolonging the independent medical review process.

3 (c) The patient advocate shall require the system to promptly
4 reimburse the enrollee for any reasonable costs associated with
5 those services when the patient advocate finds that the disputed
6 health care services were a covered benefit and the services are
7 found by the independent medical review organization to have
8 been medically appropriate and the enrollee's decision to secure
9 the services outside of the system was reasonable under the
10 emergency or urgent medical circumstances.

11 140619. (a) The patient advocate shall utilize a competitive
12 bidding process and use any other information on program costs
13 reasonable to establish a per case reimbursement schedule to pay
14 the costs of independent medical review organization reviews,
15 which may vary depending on the type of medical condition under
16 review and on other relevant factors.

17 (b) The costs of the independent medical review system for
18 enrollees shall be borne by the system.

19 140620. The patient advocate shall, on a biannual basis, report
20 to the chief medical officer on the number, types, and outcomes
21 of all patient grievances relating to the denial, delay, or
22 modification of health care services.

23

24

CHAPTER 7. OTHER PROVISIONS

25

26 140700. Notwithstanding any other provision of law, the
27 operative date of this division, other than Article 2 (commencing
28 with Section 140230) of Chapter 3, shall be the date the Secretary
29 of California Health and Human Services notifies the Secretary of
30 the Senate and the Chief Clerk of the Assembly that he or she has
31 determined that the Healthcare Fund will have sufficient revenues
32 to fund the costs of implementing this division or the date the
33 Secretary of California Health and Human Services receives the
34 necessary waiver referenced in Section 140701, whichever is later.

35 No state entity shall incur any transition or planning costs prior
36 to that date. However, this prohibition shall not apply to activities
37 of the California Healthcare Premium Commission, and Article 2
38 (commencing with Section 140230) of Chapter 3 of this division
39 shall become operative on January 1, 2012.

1 140701. The Secretary of California Health and Human
2 Services shall seek the necessary waiver under Section 1332 of
3 the federal Patient Protection and Affordable Care Act (Public
4 Law 111-148) in order for this division to be implemented,
5 pursuant to Section 140700.

6 SEC. 2. 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.

O