

AMENDED IN ASSEMBLY JUNE 28, 2012

AMENDED IN ASSEMBLY JUNE 19, 2012

AMENDED IN SENATE APRIL 10, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1196

**Introduced by Senator Hernandez
(Coauthor: Senator Gaines)**

February 22, 2012

An act to add Section 1367.50 to the Health and Safety Code, and to add Section 10117.52 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1196, as amended, Hernandez. Claims data disclosure.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensing and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Insurance Commissioner. Except as specified, existing law prohibits a provider of health care, a health care service plan, or contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), requires the Secretary of Health and Human Services to make available to qualified entities, as defined, specified claims data relating to Medicare in order to evaluate the performance of providers and suppliers.

This bill would provide that no contract in existence or issued, amended, or renewed on or after January 1, 2013, between a health care service plan or a health insurer and a provider or supplier, as specified, shall prohibit, condition, or in any way restrict the disclosure of claims data related to health care services provided to specified individuals, to a qualified entity, as defined. The bill would further require a qualified entity to comply with the requirements established by PPACA, as well as with any rules, regulations, and guidelines adopted pursuant to that law, as specified, relative to data obtained pursuant to these provisions.

Because a willful violation of the act by a health care service plan would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1367.50 is added to the Health and Safety
2 Code, to read:
3 1367.50. (a) No contract in existence or issued, amended, or
4 renewed on or after January 1, 2013, between a health care service
5 plan and a provider or a supplier shall prohibit, condition, or in
6 any way restrict the disclosure of claims data related to health care
7 services provided to an enrollee or subscriber of the health care
8 service plan or beneficiaries of any self-funded health coverage
9 arrangement administered by the health care service plan, to a
10 qualified entity, as defined in Section 1395kk of Title 42 of the
11 United States Code. A qualified entity shall comply with all
12 requirements established pursuant to Section 1395kk of Title 42
13 of the United States Code, and with any rules, regulations, and
14 guidelines adopted pursuant to PPACA, to ensure the privacy and
15 security of the data obtained under this section. A qualified entity
16 shall also comply with all rules, regulations, and guidelines adopted
17 pursuant to PPACA governing provider and supplier requests for
18 error correction for data obtained under this section.

1 (b) For purposes of this section, the following definitions apply:

2 (1) “PPACA” means the federal Patient Protection and
3 Affordable Care Act (Public Law 111-148), as amended by the
4 federal Health Care and Education Reconciliation Act of 2010
5 (Public Law 111-152).

6 (2) “Provider” means a ~~“provider” as defined in Section 400.202~~
7 ~~of Title 42 of the Code of Federal Regulations, but does not include~~
8 ~~a provider to the extent that it participates in Medicare: hospital,~~
9 ~~a skilled nursing facility, a comprehensive outpatient rehabilitation~~
10 ~~facility, a home health agency, a hospice, a clinic, or a~~
11 ~~rehabilitation agency.~~

12 (3) “Supplier” means a ~~“supplier” as defined in Section 400.202~~
13 ~~of Title 42 of the Code of Federal Regulations, but does not include~~
14 ~~a supplier to the extent that it participates in Medicare: physician~~
15 ~~and surgeon or other health care practitioner, or an entity that~~
16 ~~furnishes health care services other than a provider.~~

17 SEC. 2. Section 10117.52 is added to the Insurance Code, to
18 read:

19 10117.52. (a) No health insurance contract in existence or
20 issued, amended, or renewed on or after January 1, 2013, between
21 a health insurer and a provider or a supplier shall prohibit,
22 condition, or in any way restrict the disclosure of claims data
23 related to health care services provided to ~~insureds~~ *a policyholder*
24 *or insured of the insurer* or beneficiaries of any self-insured health
25 coverage arrangement administered by the insurer, to a qualified
26 entity, as defined in Section 1395kk of Title 42 of the United States
27 Code. A qualified entity shall comply with all requirements
28 established pursuant to that section, and with any rules, regulations,
29 and guidelines adopted pursuant to PPACA, to ensure the privacy
30 and security of the data obtained under this section. A qualified
31 entity shall also comply with all rules, regulations, and guidelines
32 adopted pursuant to PPACA governing provider and supplier
33 requests for error correction for data obtained under this section.

34 (b) For purposes of this section, the following definitions apply:

35 (1) “PPACA” means the federal Patient Protection and
36 Affordable Care Act (PPACA, Public Law 111-148), as amended
37 by the federal Health Care and Education Reconciliation Act of
38 2010 (Public Law 111-152).

39 (2) “Provider” means a ~~“provider” as defined in Section 400.202~~
40 ~~of Title 42 of the Code of Federal Regulations, but does not include~~

1 ~~a provider to the extent that it participates in Medicare.~~ *hospital,*
2 *a skilled nursing facility, a comprehensive outpatient rehabilitation*
3 *facility, a home health agency, a hospice, a clinic, or a*
4 *rehabilitation agency.*

5 (3) “Supplier” means a “supplier” as defined in Section 400.202
6 of Title 42 of the Code of Federal Regulations, but does not include
7 a supplier to the extent that it participates in Medicare. *physician*
8 *and surgeon or other health care practitioner, or an entity that*
9 *furnishes health care services other than a provider.*

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