

AMENDED IN SENATE AUGUST 20, 2013

AMENDED IN SENATE JUNE 5, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 460**

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**Introduced by Assembly Member Ammiano  
(Coauthor: Assembly Member Atkins)**

February 19, 2013

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An act to amend Section 1374.55 of the Health and Safety Code, and to amend Section 10119.6 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 460, as amended, Ammiano. Health care coverage: infertility.

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law also imposes various requirements and restrictions on health care service plans and health insurers, including, among other things, a requirement that every health care service plan contract or health insurance policy that is issued, amended, or renewed on or after January 1, 1990, offer coverage for the treatment of infertility, except in vitro fertilization, under those terms and conditions as may be agreed upon between the group subscriber or the group policyholder and the plan or the insurer, except as provided.

This bill would require that the coverage for the treatment of infertility be offered and, if purchased, provided without discrimination on the

basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation. Because a willful violation of the bill’s provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

(2) 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 1374.55 of the Health and Safety Code  
 2 is amended to read:  
 3 1374.55. (a) On and after January 1, 1990, every health care  
 4 service plan contract that is issued, amended, or renewed that  
 5 covers hospital, medical, or surgical expenses on a group basis,  
 6 where the plan is not a health maintenance organization as defined  
 7 in Section 1373.10, shall offer coverage for the treatment of  
 8 infertility, except in vitro fertilization, under those terms and  
 9 conditions as may be agreed upon between the group subscriber  
 10 and the plan. Every plan shall communicate the availability of that  
 11 coverage to all group contractholders and to all prospective group  
 12 contractholders with whom they are negotiating.  
 13 (b) For purposes of this section, “infertility” means either (1)  
 14 the presence of a demonstrated condition recognized by a licensed  
 15 physician and surgeon as a cause of infertility, or (2) the inability  
 16 to conceive a pregnancy or to carry a pregnancy to a live birth after  
 17 a year or more of regular sexual relations without contraception.  
 18 “Treatment for infertility” means procedures consistent with  
 19 established medical practices in the treatment of infertility by  
 20 licensed physicians and surgeons including, but not limited to,  
 21 diagnosis, diagnostic tests, medication, surgery, and gamete  
 22 intrafallopian transfer. “In vitro fertilization” means the laboratory  
 23 medical procedures involving the actual in vitro fertilization  
 24 process.

1 (c) On and after January 1, 1990, every health care service plan  
2 that is a health maintenance organization, as defined in Section  
3 1373.10, and that issues, renews, or amends a health care service  
4 plan contract that provides group coverage for hospital, medical,  
5 or surgical expenses shall offer the coverage specified in  
6 subdivision (a), according to the terms and conditions that may be  
7 agreed upon between the group subscriber and the plan to group  
8 contractholders with at least 20 employees to whom the plan is  
9 offered. The plan shall communicate the availability of the  
10 coverage to those group contractholders and prospective group  
11 contractholders with whom the plan is negotiating.

12 (d) This section shall not be construed to deny or restrict in any  
13 way any existing right or benefit to coverage and treatment of  
14 infertility under an existing law, plan, or policy.

15 (e) This section shall not be construed to require any employer  
16 that is a religious organization to offer coverage for forms of  
17 treatment of infertility in a manner inconsistent with the religious  
18 organization's religious and ethical principles.

19 (f) (1) This section shall not be construed to require any plan,  
20 which is a subsidiary of an entity whose owner or corporate  
21 member is a religious organization, to offer coverage for treatment  
22 of infertility in a manner inconsistent with that religious  
23 organization's religious and ethical principles.

24 (2) For purposes of this subdivision, "subsidiary" of a specified  
25 corporation means a corporation more than 45 percent of the voting  
26 power of which is owned directly, or indirectly through one or  
27 more subsidiaries, by the specified corporation.

28 (g) ~~Coverage Consistent with Section 1365.5, coverage~~ for the  
29 treatment of infertility shall be offered and, if purchased, provided  
30 without discrimination on the basis of age, ancestry, color,  
31 disability, domestic partner status, gender, gender expression,  
32 gender identity, genetic information, marital status, national origin,  
33 race, religion, sex, or sexual orientation. Nothing in this subdivision  
34 shall be construed to interfere with the clinical judgment of a  
35 physician and surgeon.

36 SEC. 2. Section 10119.6 of the Insurance Code is amended to  
37 read:

38 10119.6. (a) On and after January 1, 1990, every insurer  
39 issuing, renewing, or amending a policy of disability insurance  
40 that covers hospital, medical, or surgical expenses on a group basis

1 shall offer coverage of infertility treatment, except in vitro  
2 fertilization, under those terms and conditions as may be agreed  
3 upon between the group policyholder and the insurer. Every insurer  
4 shall communicate the availability of that coverage to all group  
5 policyholders and to all prospective group policyholders with  
6 whom they are negotiating.

7 (b) For purposes of this section, “infertility” means either (1)  
8 the presence of a demonstrated condition recognized by a licensed  
9 physician and surgeon as a cause of infertility, or (2) the inability  
10 to conceive a pregnancy or to carry a pregnancy to a live birth after  
11 a year or more of regular sexual relations without contraception.  
12 “Treatment for infertility” means procedures consistent with  
13 established medical practices in the treatment of infertility by  
14 licensed physicians and surgeons, including, but not limited to,  
15 diagnosis, diagnostic tests, medication, surgery, and gamete  
16 intrafallopian transfer. “In vitro fertilization” means the laboratory  
17 medical procedures involving the actual in vitro fertilization  
18 process.

19 (c) This section shall not be construed to deny or restrict in any  
20 way any existing right or benefit to coverage and treatment of  
21 infertility under an existing law, plan, or policy.

22 (d) This section shall not be construed to require any employer  
23 that is a religious organization to offer coverage for forms of  
24 treatment of infertility in a manner inconsistent with the religious  
25 organization’s religious and ethical principles.

26 (e) (1) This section shall not be construed to require any insurer,  
27 which is a subsidiary of an entity whose owner or corporate  
28 member is a religious organization, to offer coverage for treatment  
29 of infertility in a manner inconsistent with that religious  
30 organization’s religious and ethical principles.

31 (2) For purposes of this subdivision, “subsidiary” of a specified  
32 corporation means a corporation more than 45 percent of the voting  
33 power of which is owned directly, or indirectly through one or  
34 more subsidiaries, by the specified corporation.

35 (f) This section applies to every disability insurance policy that  
36 is issued, amended, or renewed to residents of this state regardless  
37 of the situs of the contract.

38 (g) ~~Coverage Consistent with Section 10140~~, coverage for the  
39 treatment of infertility shall be offered and, if purchased, provided  
40 without discrimination on the basis of age, ancestry, color,

1 disability, domestic partner status, gender, gender expression,  
2 gender identity, genetic information, marital status, national origin,  
3 race, religion, sex, or sexual orientation. Nothing in this subdivision  
4 shall be construed to interfere with the clinical judgment of a  
5 physician and surgeon.

6 SEC. 3. 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.

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