AMENDED IN SENATE APRIL 3, 2013

SENATE BILL No. 494

Introduced by Senator Monning
(Principal coauthor: Senator Hernandez)

February 21, 2013

An act to ~~amend Section 3500 of the Business and Professions~~ *add Section 1375.9 to the Health and Safety Code, to add Section 10133.4 to the Insurance Code, and to amend Sections 14087.48, 14088, and 14254 of, and to add Section 14088.1 to, the Welfare and Institutions* Code, relating to health care providers.

LEGISLATIVE COUNSEL'S DIGEST

SB 494, as amended, Monning. Health care ~~providers: California Health Benefit Exchange.~~ *providers.*

Existing law, the ~~federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and qualified employers, as specified, and meets certain other requirements. Existing law establishes the California Health Benefit Exchange (the Exchange) within state government for that purpose.~~ *Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.*

This bill would authorize, if the assignment of plan enrollees or insureds to a primary care physician is authorized by certain provisions of law or contract, the assignment of up to 2,000 enrollees or insureds to each full-time equivalent primary care physician and would authorize

the assignment of an additional 1,750 enrollees or insureds, as specified, to a primary care physician if that physician supervises one or more nonphysician medical practitioners. By imposing new requirements on health care service plans, the willful violation of which would be a crime, this bill would impose a state-mandated local program.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services. Prior to a Medi-Cal managed care plan commencing operations, existing law requires the department to evaluate, among other things, the extent to which the plan has an adequate provider network, including the location, office hours, and language capabilities of the plan's primary care physicians. Existing law defines primary care provider for these purposes as an internist, general practitioner, obstetrician/gynecologist, pediatrician, family practice physician, or, as specified, types of clinics and defines primary care physician as a physician who has the responsibility, among other duties, for providing initial and primary care to patients.

This bill would require that the department evaluate the location, office hours, and language capabilities of a plan's primary care practitioners instead of the plan's primary care physicians. The bill would add nonphysician medical practitioners to the definition of a primary care provider. The bill would define nonphysician medical practitioner as a physician assistant performing services under physician supervision, as specified, or as a nurse practitioner performing services in collaboration with a physician, as specified. The bill would authorize, if the assignment of beneficiaries enrolled in any type of Medi-Cal managed care plan to a primary care physician is authorized by specified provisions of law or contract, the assignment of up to 2,000 beneficiaries to each full-time equivalent primary care physician. The bill would authorize the assignment of an additional 1,750 beneficiaries, as specified, to a primary care physician when that physician supervises one or more nonphysician medical practitioners. The bill would make conforming changes.

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.

~~This bill would state the intent of the Legislature to ensure that qualified health plans participating in the California Health Benefit Exchange provide an adequate network of primary care providers, including non-physician providers.~~

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

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

SECTION 1. Section 1375.9 is added to the Health and Safety Code, to read:

1375.9. (a) If the assignment of plan enrollees to a primary care physician is authorized by this chapter, or any regulation or contract promulgated thereunder, each full-time equivalent primary care physician may be assigned up to 2,000 enrollees. Notwithstanding any other state law or regulation, if a primary care physician supervises one or more nonphysician medical practitioners, the physician may be assigned up to an additional 1,750 enrollees for each full-time equivalent nonphysician medical practitioner supervised by that physician.

(b) This section shall not require a primary care physician to accept an assignment of enrollees that would be contrary to paragraph (2) of subdivision (b) of Section 1375.7.

SEC. 2. Section 10133.4 is added to the Insurance Code, to read:

10133.4. (a) If the assignment of insureds to a primary care physician is authorized by this part, or any regulation, contract, or policy promulgated thereunder, each full-time equivalent primary care physician may be assigned up to 2,000 insureds. Notwithstanding any other state law or regulation, if a primary care physician supervises one or more nonphysician medical practitioners, the physician may be assigned up to an additional 1,750 insureds for each full-time equivalent nonphysician medical practitioner supervised by that physician.

(b) This section shall not require a primary care provider to accept the assignment of a number of insureds that would exceed standards of good health care as provided in Section 10133.5.

SEC. 3. Section 14087.48 of the Welfare and Institutions Code is amended to read:

14087.48. (a) For purposes of this section "Medi-Cal managed care plan" means any individual, organization, or entity that enters into a contract with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.9 (commencing with Section 14088), or Article 2.91 (commencing with Section 14089), or pursuant to Article 1 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8.

(b) Before a Medi-Cal managed care plan commences operations based upon an action of the director that expands the geographic area of Medi-Cal managed care, the department shall perform an evaluation to determine the readiness of any affected Medi-Cal managed care plan to commence operations. The evaluation shall include, at a minimum, all of the following:

(1) The extent to which the Medi-Cal managed care plan demonstrates the ability to provide reliable service utilization and cost data, including, but not limited to, quarterly financial reports, audited annual reports, utilization reports of medical services, and encounter data.

(2) The extent to which the Medi-Cal managed care plan has an adequate provider network, including, but not limited to, the location, office hours, and language capabilities of primary care ~~physicians,~~ *practitioners,* specialists, pharmacies, and hospitals, that the types of specialists in the provider network are based on the population makeup and particular geographic needs, and that whether requirements will be met for availability of services and travel distance standards, as set forth in Sections 53852 and 53885, respectively, of Title 22 of the California Code of Regulations.

(3) The extent to which the Medi-Cal managed care plan has developed procedures for the monitoring and improvement of quality of care, including, but not limited to, procedures for retrospective reviews which include patterns of practice reviews and drug prescribing practice reviews, utilization management mechanisms to detect both under- and over-utilization of health care services, and procedures that specify timeframes for medical authorization.

(4) The extent to which the Medi-Cal managed care plan has demonstrated the ability to meet accessibility standards in accordance with Section 1300.67.2 of Title 28 of the California

Code of Regulations, including, but not limited to, procedures for appointments, waiting times, telephone procedures, after hours calls, urgent care, and arrangement for the provision of unusual specialty services.

(5) The extent to which the Medi-Cal managed care plan has met all standards and guidelines established by the department that demonstrate readiness to provide services to enrollees.

(6) The extent to which the Medi-Cal managed care plan has submitted all required contract deliverables to the department, including, but not limited to, quality improvement systems, utilization management, access and availability, member services, member grievance systems, and enrollment and disenrollments.

(7) The extent to which the Medi-Cal managed care plan's Evidence of Coverage, Member Services Guide, or both, conforms to federal and state statutes and regulations, is accurate, and is easily understood.

(8) The extent to which the Medi-Cal managed care plan's primary care and facility sites have been reviewed and evaluated by the department.

SEC. 4. Section 14088 of the Welfare and Institutions Code is amended to read:

14088. (a) It is the purpose of this article to ensure that the Medi-Cal program shall be operated in the most cost-effective and efficient manner possible with the optimum number of Medi-Cal providers and shall assure quality of care and known access to services.

(b) For the purposes of this article, the following definitions shall apply:

(1) "Primary care provider" means either of the following:

(A) Any internist, general practitioner, obstetrician/gynecologist, ~~pediatrician or~~ *pediatrician,* family practice ~~physician~~ *physician, nonphysician medical practitioner,* or any primary care clinic, rural health clinic, community clinic or hospital outpatient clinic currently enrolled in the Medi-Cal program, which agrees to provide case management to Medi-Cal beneficiaries.

(B) A county or other political subdivision that employs, operates, or contracts with, any of the primary care providers listed in subparagraph (A), and that agrees to use that primary care provider for the purposes of contracting under this article.

(2) "Primary care case management" means responsibility for the provision of referral, consultation, ordering of therapy, admission to hospitals, follow up care, and prepayment approval of referred services.

(3) "Designation form" or "form" means a form supplied by the department to be executed by a Medi-Cal beneficiary and a primary care provider or other entity eligible pursuant to this article who has entered into a contract with the department pursuant to this article, setting forth the beneficiary's choice of contractor and an agreement to be limited by the case management decisions of that contractor and the contractor's agreement to be responsible for that beneficiary's case management and medical care, as specified in this article.

(4) "Emergency services" means health care services rendered by an eligible Medi-Cal provider to a Medi-Cal beneficiary for those health services required for alleviation of severe pain or immediate diagnosis and treatment of unforeseen medical conditions which if not immediately diagnosed and treated could lead to disability or death.

(5) "Modified primary care case management" means primary care case management wherein capitated services are limited to primary care ~~physician~~ *practitioner* office visits only.

(6) "Service area" means an area designated by either a single federal Postal ZIP Code or by two or more Postal ZIP Codes that are contiguous.

(c) For purposes of this part, "nonphysician medical practitioner" means a physician assistant performing services under physician supervision in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code or a nurse practitioner performing services in collaboration with a physician pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

SEC. 5. Section 14088.1 is added to the Welfare and Institutions Code, to read:

14088.1. If the assignment of beneficiaries enrolled in any type of Medi-Cal managed care plan to a primary care physician is authorized or required by a provision of Part 3 (commencing with Section 11000) of Division 9, or any regulation, contract, or policy promulgated thereunder, each full-time equivalent primary care

physician may be assigned up to 2,000 beneficiaries. Notwithstanding any other state law or regulation, if a primary care physician in that plan supervises one or more nonphysician medical practitioners, the physician may be assigned up to an additional 1,750 beneficiaries for each full-time equivalent nonphysician medical practitioner supervised by that physician.

SEC. 6. Section 14254 of the Welfare and Institutions Code is amended to read:

14254. "Primary care ~~physician"~~ *practitioner"* is a physician *or nonphysician medical practitioner* who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of patient care, and for initiating referral for specialist care. A primary care physician shall be either a physician who has limited his practice of medicine to general practice or who is a board-certified or board-eligible internist, pediatrician, obstetrician-gynecologist, or family practitioner.

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

~~SECTION 1. Section 3500 of the Business and Professions Code is amended to read:~~

~~3500. In its concern with the growing shortage and geographic maldistribution of health care services in California, the Legislature intends to establish in this chapter a framework for development of a new category of health manpower—the physician assistant.~~

~~It is the intent of the legislature to ensure that qualified health plans participating in the California Health Benefit Exchange, created by Section 100500 of the Government Code, provide an adequate network of primary care providers, including non-physician providers.~~

~~The purpose of this chapter is to encourage the more effective utilization of the skills of physicians, and physicians and podiatrists practicing in the same medical group practice, by enabling them to delegate health care tasks to qualified physician assistants where~~

~~this delegation is consistent with the patient's health and welfare and with the laws and regulations relating to physician assistants.~~

~~This chapter is established to encourage the utilization of physician assistants by physicians, and by physicians and podiatrists practicing in the same medical group, and to provide that existing legal constraints should not be an unnecessary hindrance to the more effective provision of health care services. It is also the purpose of this chapter to allow for innovative development of programs for the education, training, and utilization of physician assistants.~~

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