

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 494

**Introduced by Senator Monning
(Principal coauthor: Senator Hernandez)**

February 21, 2013

An act to 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.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care 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 the assignment of an additional ~~1,750~~ 1,000 enrollees or insureds, as specified, to a primary care physician if that physician supervises one or more nonphysician medical ~~practitioners~~ *practitioners, as defined*. 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~~ 1,000 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.

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 1375.9 is added to the Health and Safety
- 2 Code, to read:
- 3 1375.9. (a) Notwithstanding any other state law or regulation,
- 4 if a primary care physician supervises one or more nonphysician
- 5 medical practitioners, the physician may be assigned an average

1 of an additional ~~1,750~~ 1,000 enrollees for each full-time equivalent
2 nonphysician medical practitioner supervised by that physician,
3 in addition to the number of enrollees assigned to that physician
4 pursuant to current law and approved by the department.

5 (b) This section shall not require a primary care physician to
6 accept an assignment of enrollees *by a health care service plan*
7 *without his or her approval, or that would be contrary to paragraph*
8 (2) of subdivision (b) of Section 1375.7.

9 (c) Nothing in this section shall be interpreted to modify
10 subdivision (b) of Section 3516 of the Business and Professions
11 Code.

12 (d) *For purposes of this section, “nonphysician medical*
13 *practitioner” means a physician assistant performing services*
14 *under physician supervision in compliance with Chapter 7.7*
15 *(commencing with Section 3500) of Division 2 of the Business and*
16 *Professions Code or a nurse practitioner performing services in*
17 *collaboration with a physician pursuant to Chapter 6 (commencing*
18 *with Section 2700) of Division 2 of the Business and Professions*
19 *Code.*

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

22 ~~10133.4. (a) If the assignment of insureds to a primary care~~
23 ~~physician is authorized by this part, or any regulation, contract, or~~
24 ~~policy promulgated thereunder, each full-time equivalent primary~~
25 ~~care physician may be assigned up to 2,000 insureds.~~
26 ~~Notwithstanding any other state law or regulation, if a primary~~
27 ~~care physician supervises one or more nonphysician medical~~
28 ~~practitioners, the physician may be assigned up to an additional~~
29 ~~1,750 insureds for each full-time equivalent nonphysician medical~~
30 ~~practitioner supervised by that physician.~~

31 *10133.4. (a) For purposes of insurers who contract with*
32 *providers for alternate rates pursuant to Section 10133,*
33 *“nonphysician medical practitioner” means a physician assistant*
34 *performing services under physician supervision in compliance*
35 *with Chapter 7.7 (commencing with Section 3500) of Division 2*
36 *of the Business and Professions Code or a nurse practitioner*
37 *performing services in collaboration with a physician pursuant to*
38 *Chapter 6 (commencing with Section 2700) of Division 2 of the*
39 *Business and Professions Code. In accordance with Section 14088*

1 *of the Welfare and Institutions Code, a nonphysician medical*
2 *practitioner shall be considered a primary care provider.*

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

6 (c) Nothing in this section shall be interpreted to modify
7 subdivision (b) of Section 3516 of the Business and Professions
8 Code.

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

11 14087.48. (a) For purposes of this section, “Medi-Cal managed
12 care plan” means any individual, organization, or entity that enters
13 into a contract with the department pursuant to Article 2.7
14 (commencing with Section 14087.3), Article 2.8 (commencing
15 with Section 14087.5), Article 2.81 (commencing with Section
16 14087.96), Article 2.9 (commencing with Section 14088), or
17 Article 2.91 (commencing with Section 14089), or pursuant to
18 Article 1 (commencing with Section 14200), or Article 7
19 (commencing with Section 14490) of Chapter 8.

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

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

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

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

9 (4) The extent to which the Medi-Cal managed care plan has
10 demonstrated the ability to meet accessibility standards in
11 accordance with Section 1300.67.2 of Title 28 of the California
12 Code of Regulations, including, but not limited to, procedures for
13 appointments, waiting times, telephone procedures, after hours
14 calls, urgent care, and arrangement for the provision of unusual
15 specialty services.

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

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

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

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

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

33 14088. (a) It is the purpose of this article to ensure that the
34 Medi-Cal program shall be operated in the most cost-effective and
35 efficient manner possible with the optimum number of Medi-Cal
36 providers and shall ensure quality of care and known access to
37 services.

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

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

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

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

11 (2) “Primary care case management” means responsibility for
12 the provision of referral, consultation, ordering of therapy,
13 admission to hospitals, followup care, and prepayment approval
14 of referred services.

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

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

30 (5) “Modified primary care case management” means primary
31 care case management wherein capitated services are limited to
32 primary care practitioner office visits only.

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

36 (c) For purposes of ~~this part~~, *Medi-Cal managed care plans, as*
37 *defined in subdivision (m) of Section 14016.5*, “nonphysician
38 medical practitioner” means a physician assistant performing
39 services under physician supervision in compliance with Chapter
40 7.7 (commencing with Section 3500) of Division 2 of the Business

1 and Professions Code, a certified nurse-midwife performing
2 services under physician supervision in compliance with Article
3 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of
4 the Business and Professions Code, or a nurse practitioner
5 performing services in collaboration with a physician pursuant to
6 Chapter 6 (commencing with Section 2700) of Division 2 of the
7 Business and Professions Code.

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

10 14088.1. If the assignment of beneficiaries enrolled in any type
11 of Medi-Cal managed care plan to a primary care physician is
12 authorized or required by a provision of this part, or any regulation,
13 contract, or policy promulgated thereunder, each full-time
14 equivalent primary care physician may be assigned up to 2,000
15 beneficiaries. Notwithstanding any other state law or regulation,
16 if a primary care physician in that plan supervises one or more
17 nonphysician medical practitioners, the physician may be assigned
18 up to an additional ~~1,750~~ 1,000 beneficiaries for each full-time
19 equivalent nonphysician medical practitioner supervised by that
20 physician.

21 Nothing in this section shall be interpreted to modify subdivision
22 (b) of Section 3516 of the Business and Professions Code.

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

25 14254. "Primary care practitioner" is a physician or
26 nonphysician medical practitioner who has the responsibility for
27 providing initial and primary care to patients, for maintaining the
28 continuity of patient care, and for initiating referral for specialist
29 care. A primary care physician shall be either a physician who has
30 limited his or her practice of medicine to general practice or who
31 is a board-certified or board-eligible internist, pediatrician,
32 obstetrician-gynecologist, or family practitioner.

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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