

AMENDED IN ASSEMBLY AUGUST 19, 2013

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 *and repeal* Section 1375.9~~to~~ of 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 *and repeal* Section 14088.1~~to~~, of, 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, *until January 1, 2019*, authorize the assignment of an additional 1,000 enrollees ~~or insureds~~, as specified, to a primary care physician if that physician supervises one or more nonphysician medical 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 *additionally* 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.~~ *nonphysician medical practitioners*. 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~~ *would, until January 1, 2019,* 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~~ *would also, until January 1, 2019,* authorize the assignment of an additional 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~~ *If* a primary care physician supervises one or more nonphysician
5 medical practitioners, the physician may be assigned an average
6 of an additional 1,000 enrollees for each full-time equivalent
7 nonphysician medical practitioner supervised by that physician,
8 in addition to the number of enrollees assigned to that physician
9 pursuant to current law and approved by the department.

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

14 (c) Nothing in this section shall be interpreted to modify
15 *subdivision (e) of Section 2836.1 of the Business and Professions*
16 *Code* or subdivision (b) of Section 3516 of the Business and
17 Professions Code.

18 (d) For purposes of this section, “nonphysician medical
19 practitioner” means a physician assistant performing services under
20 physician supervision in compliance with Chapter 7.7 (commencing
21 with Section 3500) of Division 2 of the Business and Professions
22 Code or a nurse practitioner performing services in collaboration
23 with a physician pursuant to Chapter 6 (commencing with Section
24 2700) of Division 2 of the Business and Professions Code.

25 (e) *This section shall remain in effect only until January 1, 2019,*
26 *and as of that date is repealed, unless a later enacted statute, that*
27 *is enacted before January 1, 2019, deletes or extends that date.*

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

30 10133.4. (a) For purposes of insurers who contract with
31 providers for alternate rates pursuant to Section 10133,
32 “nonphysician medical practitioner” means a physician assistant
33 performing services under physician supervision in compliance
34 with Chapter 7.7 (commencing with Section 3500) of Division 2
35 of the Business and Professions Code or a nurse practitioner
36 performing services in collaboration with a physician pursuant to
37 Chapter 6 (commencing with Section 2700) of Division 2 of the
38 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 (e) of Section 2836.1 of the Business and Professions*
8 *Code* or subdivision (b) of Section 3516 of the Business and
9 Professions Code.

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

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

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

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

32 (2) The extent to which the Medi-Cal managed care plan has
33 an adequate provider network, including, but not limited to, the
34 location, office hours, and language capabilities of primary care
35 ~~practitioners, physicians, nonphysician medical practitioners,~~
36 specialists, pharmacies, and hospitals, that the types of specialists
37 in the provider network are based on the population makeup and
38 particular geographic needs, and that whether requirements will
39 be met for availability of services and travel distance standards,

1 as set forth in Sections 53852 and 53885, respectively, of Title 22
2 of the California Code of Regulations.

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

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

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

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

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

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

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

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

1 (b) For the purposes of this article, the following definitions
2 shall apply:
3 (1) “Primary care provider” means either of the following:
4 (A) Any internist, general practitioner, obstetrician-gynecologist,
5 pediatrician, family practice physician, nonphysician medical
6 practitioner, or any primary care clinic, rural health clinic,
7 community clinic or hospital outpatient clinic currently enrolled
8 in the Medi-Cal program, which agrees to provide case
9 management to Medi-Cal beneficiaries.
10 (B) A county or other political subdivision that employs,
11 operates, or contracts with, any of the primary care providers listed
12 in subparagraph (A), and that agrees to use that primary care
13 provider for the purposes of contracting under this article.
14 (2) “Primary care case management” means responsibility for
15 the provision of referral, consultation, ordering of therapy,
16 admission to hospitals, followup care, and prepayment approval
17 of referred services.
18 (3) “Designation form” or “form” means a form supplied by
19 the department to be executed by a Medi-Cal beneficiary and a
20 primary care provider or other entity eligible pursuant to this article
21 who has entered into a contract with the department pursuant to
22 this article, setting forth the beneficiary’s choice of contractor and
23 an agreement to be limited by the case management decisions of
24 that contractor and the contractor’s agreement to be responsible
25 for that beneficiary’s case management and medical care, as
26 specified in this article.
27 (4) “Emergency services” means health care services rendered
28 by an eligible Medi-Cal provider to a Medi-Cal beneficiary for
29 those health services required for alleviation of severe pain or
30 immediate diagnosis and treatment of unforeseen medical
31 conditions which if not immediately diagnosed and treated could
32 lead to disability or death.
33 (5) “Modified primary care case management” means primary
34 care case management wherein capitated services are limited to
35 primary care practitioner office visits only.
36 (6) “Service area” means an area designated by either a single
37 federal Postal ZIP Code or by two or more Postal ZIP Codes that
38 are contiguous.
39 (c) For purposes of Medi-Cal managed care plans, as defined
40 in subdivision (m) of Section 14016.5, “nonphysician medical

1 practitioner” means a physician assistant performing services under
2 physician supervision in compliance with Chapter 7.7 (commencing
3 with Section 3500) of Division 2 of the Business and Professions
4 Code, a certified nurse-midwife performing services under
5 physician supervision in compliance with Article 2.5 (commencing
6 with Section 2746) of Chapter 6 of Division 2 of the Business and
7 Professions Code, or a nurse practitioner performing services in
8 collaboration with a physician pursuant to Chapter 6 (commencing
9 with Section 2700) of Division 2 of the Business and Professions
10 Code.

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

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

23 Nothing in this section shall be interpreted to modify *subdivision*
24 *(e) of Section 2836.1 of the Business and Professions Code or*
25 *subdivision (b) of Section 3516 of the Business and Professions*
26 *Code.*

27 *This section shall remain in effect only until January 1, 2019,*
28 *and as of that date is repealed, unless a later enacted statute, that*
29 *is enacted before January 1, 2019, deletes or extends that date.*

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

32 14254. *(a) “Primary care—practitioner” physician” is a*
33 ~~physician or nonphysician medical practitioner~~ who has the
34 responsibility for providing initial and primary care to patients,
35 for maintaining the continuity of patient care, and for initiating
36 referral for specialist care. A primary care physician shall be either
37 a physician who has limited his or her practice of medicine to
38 general practice or who is a board-certified or board-eligible
39 internist, pediatrician, obstetrician-gynecologist, or family
40 practitioner.

1 ***(b) A nonphysician medical practitioner, as defined in***
2 ***subdivision (c) of Section 14088, who is supervised by a primary***
3 ***care physician, has the responsibility for providing initial and***
4 ***primary care to patients, for maintaining the continuity of patient***
5 ***care, and for initiating referral for specialist care.***

6 SEC. 7. 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.