

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

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 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 of,~~ 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, *require a health care service plan to ensure that there is at least one full-time equivalent primary care physician for every 2,000 enrollees. This bill would, until January*

1, 2019, authorize the assignment of up to an additional 1,000 enrollees, as specified, to a primary care physician if that physician supervises one or more for each full-time equivalent nonphysician medical practitioners, practitioner, as defined: defined, supervised by that physician. 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 physicians and, if applicable, 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, 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 in a Medi-Cal managed care plan.~~ 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) If a primary care physician supervises one or more~~
4 ~~nonphysician medical practitioners, the physician may be assigned~~
5 ~~an average of an additional 1,000 enrollees for each full-time~~
6 ~~equivalent nonphysician medical practitioner supervised by that~~
7 ~~physician, in addition to the number of enrollees assigned to that~~
8 ~~physician pursuant to current law.~~

9 *1375.9. (a) A health care service plan shall ensure there is at*
10 *least one full-time equivalent primary care physician for every*
11 *2,000 enrollees of the plan. The number of enrollees per primary*
12 *care physician may be increased by up to 1,000 additional*
13 *enrollees for each full-time equivalent nonphysician medical*
14 *practitioner supervised by that primary care physician.*

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

19 (c) Nothing in this section shall be interpreted to modify
20 subdivision (e) of Section 2836.1 of the Business and Professions
21 Code or subdivision (b) of Section 3516 of the Business and
22 Professions Code.

23 (d) For purposes of this section, *a primary care provider*
24 *includes a “nonphysician medical—practitioner”—means*
25 *practitioner,” which is defined as a physician assistant performing*
26 *services under the supervision of a primary care physician*
27 *supervision in compliance with Chapter 7.7 (commencing with*
28 *Section 3500) of Division 2 of the Business and Professions Code*
29 *or a nurse practitioner performing services in collaboration with*
30 *a physician pursuant to Chapter 6 (commencing with Section 2700)*
31 *of Division 2 of the Business and Professions Code.*

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

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

37 10133.4. (a) For purposes of insurers who contract with
38 providers for alternate rates pursuant to Section 10133, *a primary*

1 *care provider includes a “nonphysician medical practitioner”*
 2 *means practitioner,” which is defined as a physician assistant*
 3 *performing services under the supervision of a primary care*
 4 *physician supervision in compliance with Chapter 7.7 (commencing*
 5 *with Section 3500) of Division 2 of the Business and Professions*
 6 *Code or a nurse practitioner performing services in collaboration*
 7 *with a physician pursuant to Chapter 6 (commencing with Section*
 8 *2700) of Division 2 of the Business and Professions Code.*

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

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

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

18 14087.48. (a) For purposes of this section, “Medi-Cal managed
 19 care plan” means any individual, organization, or entity that enters
 20 into a contract with the department pursuant to Article 2.7
 21 (commencing with Section 14087.3), Article 2.8 (commencing
 22 with Section 14087.5), Article 2.81 (commencing with Section
 23 14087.96), Article 2.9 (commencing with Section 14088), or
 24 Article 2.91 (commencing with Section 14089), or pursuant to
 25 Article 1 (commencing with Section 14200), or Article 7
 26 (commencing with Section 14490) of Chapter 8.

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

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

38 (2) The extent to which the Medi-Cal managed care plan has
 39 an adequate provider network, including, but not limited to, the
 40 location, office hours, and language capabilities of primary care

1 physicians and, if applicable, nonphysician medical practitioners,
2 specialists, pharmacies, and hospitals, that the types of specialists
3 in the provider network are based on the population makeup and
4 particular geographic needs, and that whether requirements will
5 be met for availability of services and travel distance standards,
6 as set forth in Sections 53852 and 53885, respectively, of Title 22
7 of the California Code of Regulations.

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

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

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

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

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

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

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

1 14088. (a) It is the purpose of this article to ensure that the
2 Medi-Cal program shall be operated in the most cost-effective and
3 efficient manner possible with the optimum number of Medi-Cal
4 providers and shall ensure quality of care and known access to
5 services.

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

8 (1) “Primary care provider” means either of the following:

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

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

19 (2) “Primary care case management” means responsibility for
20 the provision of referral, consultation, ordering of therapy,
21 admission to hospitals, followup care, and prepayment approval
22 of referred services.

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

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

38 (5) “Modified primary care case management” means primary
39 care case management wherein capitated services are limited to
40 primary care practitioner office visits only.

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

4 (c) For purposes of Medi-Cal managed care plans, as defined
5 in subdivision (m) of Section 14016.5, “nonphysician medical
6 practitioner” means a physician assistant performing services under
7 physician supervision in compliance with Chapter 7.7 (commencing
8 with Section 3500) of Division 2 of the Business and Professions
9 Code, a certified nurse-midwife performing services under
10 physician supervision in compliance with Article 2.5 (commencing
11 with Section 2746) of Chapter 6 of Division 2 of the Business and
12 Professions Code, or a nurse practitioner performing services in
13 collaboration with a physician pursuant to Chapter 6 (commencing
14 with Section 2700) of Division 2 of the Business and Professions
15 Code.

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

18 ~~14088.1. If a primary care physician in a Medi-Cal managed~~
19 ~~care plan supervises one or more nonphysician medical~~
20 ~~practitioners, the physician may be assigned up to an additional~~
21 ~~1,000 beneficiaries for each full-time equivalent nonphysician~~
22 ~~medical practitioner supervised by that physician, in addition to~~
23 ~~the number of beneficiaries assigned to that physician pursuant to~~
24 ~~current law.~~

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

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

32 ~~SEC. 6:~~

33 ~~SEC. 5. Section 14254 of the Welfare and Institutions Code is~~
34 ~~amended to read:~~

35 14254. (a) “Primary care physician” is a physician who has
36 the responsibility for providing initial and primary care to patients,
37 for maintaining the continuity of patient care, and for initiating
38 referral for specialist care. A primary care physician shall be either
39 a physician who has limited his or her practice of medicine to
40 general practice or who is a board-certified or board-eligible

1 internist, pediatrician, obstetrician-gynecologist, or family
2 practitioner.

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

8 ~~SEC. 7.~~

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

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