

**Introduced by Senator Mitchell**February 21, 2014

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An act to add Section 654.4 to the Business and Professions Code, relating to health care services.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1256, as introduced, Mitchell. Medical services: credit.

Existing law prohibits a healing arts licensee, including physicians and surgeons, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners, from referring a person for certain health care services if the licensee has a financial interest, as defined, with the person or entity that receives the referral. Existing law provides specified exemptions from this prohibition. Under existing law, a violation of the provisions governing referrals is a crime.

Existing law prohibits a dentist, or an employee or agent of that dentist, from arranging for or establishing credit extended by a 3rd party for a patient without first providing a written notice and a written treatment plan, as specified. Existing law prohibits a dentist, or employee or agent of a dentist, from charging treatment not yet rendered or costs not yet incurred to an open-end credit extended by a 3rd party that is arranged for or established in the dental office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient's receipt of the treatment plan. A person who willfully violates these provisions is subject to specified civil liability.

This bill would similarly prohibit a healing arts licensee, or an employee or agent of that licensee, from arranging for or establishing credit extended by a 3rd party for a patient without first providing a written notice and a written treatment plan, and would prohibit that

arrangement or establishment of credit with regard to a patient who has been administered or is under the influence of general anesthesia, conscious sedation, or nitrous oxide. The bill would prohibit a healing arts licensee, or employee or agent of a licensee, from charging treatment not yet rendered or costs not yet incurred to an open-end credit extended by a 3rd party that is arranged for or established in the licensee’s office without first providing the patient with specified information regarding the treatment and services to be rendered and ensuring the patient’s receipt of the treatment plan. The bill would require a healing arts licensee to refund to the lender any payment received for treatment that has not been rendered or costs that have not been incurred, as specified, within 15 business days upon the patient’s request. The bill would provide that a person who willfully violates these provisions is subject to specified civil liability.

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

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 654.4 is added to the Business and
- 2 Professions Code, to read:
- 3 654.4. (a) For purposes of this section, the following
- 4 definitions shall apply:
- 5 (1) “Licensee” means an individual, firm, partnership,
- 6 association, corporation, limited liability company, or cooperative
- 7 association licensed under this division or under any initiative act
- 8 or division referred to in this division.
- 9 (2) “Licensee’s office” means either of the following:
- 10 (A) An office of a licensee in solo practice.
- 11 (B) An office in which services or goods are personally provided
- 12 by the licensee or by employees in that office, or personally by
- 13 independent contractors in that office, in accordance with law.

1 Employees and independent contractors shall be licensed or  
2 certified when licensure or certification is required by law.

3 (3) “Open-end credit” means credit extended by a creditor under  
4 a plan in which the creditor reasonably contemplates repeated  
5 transactions, the creditor may impose a finance charge from time  
6 to time on an outstanding unpaid balance, and the amount of credit  
7 that may be extended to the debtor during the term of the plan, up  
8 to any limit set by the creditor, is generally made available to the  
9 extent that any outstanding balance is repaid.

10 (4) “Patient” includes, but is not limited to, the patient’s parent  
11 or other legal representative.

12 (b) It is unlawful for a licensee to charge treatment or costs to  
13 an open-end credit, that is extended by a third party and that is  
14 arranged for, or established in, a licensee’s office, before the date  
15 upon which the treatment is rendered or costs are incurred, without  
16 first providing the patient a list of the treatment and services to be  
17 rendered, the estimated costs of the treatment and services, and  
18 which treatment and services are being charged in advance of  
19 rendering or incurring of costs, and ensuring that the patient has  
20 received the treatment plan required by subdivision (e).

21 (c) A licensee shall, within 15 business days of a patient’s  
22 request, refund to the lender any payment received through credit  
23 extended by a third party that is arranged for, or established in, a  
24 licensee’s office for treatment that has not been rendered or costs  
25 that have not been incurred.

26 (d) A licensee, or an employee or agent of that licensee, shall  
27 not arrange for or establish credit extended by a third party for a  
28 patient without first providing the following written notice, on one  
29 page in at least 14-point type, and obtaining a signature from the  
30 patient:

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32 “Credit for Medical Services

33 The attached application and information is for a credit card/line  
34 of credit or loan to help you finance your medical treatment. You  
35 should know that:

36 You are applying for a \_\_\_\_ credit card/line of credit or a \_\_\_\_  
37 loan for \$\_\_\_\_\_.



1 (e) A licensee shall give a patient a written treatment plan prior  
2 to arranging for or establishing credit extended by a third party.  
3 The treatment plan shall include each anticipated service to be  
4 provided and the estimated cost of each service. If a patient is  
5 covered by a private or government medical benefit plan or medical  
6 insurance, from which the licensee takes assignment of benefits,  
7 the treatment plan shall indicate the patient's private or  
8 government-estimated share of cost for each service. If the licensee  
9 does not take assignment of benefits from a patient's medical  
10 benefit plan or insurance, the treatment plan shall indicate that the  
11 treatment may or may not be covered by a patient's medical benefit  
12 or insurance plan, and that the patient has the right to confirm  
13 medical benefit or insurance information from the patient's plan,  
14 insurer, or employer before beginning treatment.

15 (f) A licensee, or an employee or agent of that licensee, shall  
16 not arrange for or establish credit extended by a third party for a  
17 patient with whom the licensee, or an employee or agent of that  
18 licensee, communicates primarily in a language other than English  
19 that is one of the Medi-Cal threshold languages, unless the written  
20 notice information required by subdivision (d) is also provided in  
21 that language.

22 (g) A licensee, or an employee or agent of that licensee, shall  
23 not arrange for or establish credit that is extended by a third party  
24 for a patient who has been administered or is under the influence  
25 of general anesthesia, conscious sedation, or nitrous oxide.

26 (h) A patient who suffers any damage as a result of the use or  
27 employment by any person of a method, act, or practice that  
28 willfully violates this section may seek the relief provided by  
29 Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4  
30 of Division 3 of the Civil Code.

31 (i) The rights, remedies, and penalties established by this article  
32 are cumulative, and shall not supersede the rights, remedies, or  
33 penalties established under other laws.

34 SEC. 2. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 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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