

AMENDED IN SENATE APRIL 29, 2014

**SENATE BILL**

**No. 1256**

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**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 amended, 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

1 independent contractors in that office, in accordance with law.  
2 Employees and independent contractors shall be licensed or  
3 certified when licensure or certification is required by law.

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

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

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

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

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

33

34 “Credit for Medical Services

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

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

1 You do not have to apply for the credit card/line of credit or  
2 loan. You may pay your medical provider for treatment in another  
3 manner.

4 This credit card/line of credit or loan is not a payment plan with  
5 the provider's office; it is credit with [name of company issuing  
6 the credit card/line of credit or loan]. Your medical provider does  
7 not work for this company.

8 Before applying for this credit card/line of credit or loan, you  
9 have the right to a written treatment plan from your medical  
10 provider that includes the anticipated treatment to be provided and  
11 the estimated costs of each service.

12 If you are approved for a credit card/line of credit, your medical  
13 provider can only charge treatment and laboratory costs to that  
14 credit card/line of credit when you get the treatment or the medical  
15 provider incurs costs unless your medical provider has first given  
16 you a list of treatments that you are paying for in advance and the  
17 cost for each treatment or service.

18 You have the right to receive a credit to your credit card/line of  
19 credit or loan account refunded for any costs charged to the credit  
20 card/line of credit or loan for treatment that has not been rendered  
21 or costs that your medical provider has not incurred. Your medical  
22 provider must refund the amount of the charges to the lender within  
23 15 business days of your request, after which the lender will credit  
24 your account.

25 Please read carefully the terms and conditions of this credit  
26 card/line of credit or loan, including any promotional offers.

27 You may be required to pay interest rates on the amount charged  
28 to the credit card/line of credit or the amount of the loan. If you  
29 miss a payment or do not pay on time, you may have to pay a  
30 penalty on the entire cost of your procedure and/or a higher interest  
31 rate.

32 *You may use this credit card/line of credit for payments toward*  
33 *subsequent medical services.*

34 If you do not pay the money that you owe the company that  
35 provides you with a credit card/line of credit or loan, your missed  
36 payments can appear on your credit report and could hurt your  
37 credit rating. You could also be sued.

38 \_\_\_\_\_  
39 [Patient's Signature]"

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

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

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

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

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

36 SEC. 2. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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