

AMENDED IN ASSEMBLY JUNE 25, 2014

AMENDED IN ASSEMBLY JUNE 11, 2014

AMENDED IN SENATE APRIL 29, 2014

SENATE BILL

No. 1256

Introduced by Senator Mitchell
(Coauthor: Assembly Member Skinner)

February 21, 2014

An act to repeal and add Section 654.3 of 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 delete those provisions pertaining to a dentist or an employee or agent of a dentist, and instead would prohibit a healing arts licensee, *including a dentist*, or an employee or agent of that licensee, ~~including a dentist~~, from arranging for or establishing credit or a loan extended by a 3rd party for a patient without first providing a written ~~printed~~ notice or electronic notice, as specified, and a written treatment plan, and would prohibit that arrangement or establishment of credit or a loan 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 *or a loan* 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 654.3 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 654.3 is added to the Business and Professions
- 4 Code, to read:

1 654.3. (a) For purposes of this section, the following
2 definitions shall apply:

3 (1) “Licensee” means an individual, firm, partnership,
4 association, corporation, limited liability company, or cooperative
5 association licensed under this division or under any initiative act
6 or division referred to in this division.

7 (2) “Licensee’s office” means either of the following:

8 (A) An office of a licensee in solo practice.

9 (B) An office in which services or goods are personally provided
10 by the licensee or by employees in that office, or personally by
11 independent contractors in that office, in accordance with law.
12 Employees and independent contractors shall be licensed or
13 certified when licensure or certification is required by law.

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

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

23 (b) It is unlawful for a licensee, or employee or agent of that
24 licensee, to charge treatment or costs to an open-end credit or loan,
25 that is extended by a third party and that is arranged for, or
26 established in, that licensee’s office, before the date upon which
27 the treatment is rendered or costs are incurred, without first
28 providing the patient with a treatment plan, as required by
29 subdivision (e) and a list of which treatment and services are being
30 charged in advance of rendering or incurring of costs.

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

36 (d) A licensee, or an employee or agent of that licensee, shall
37 not arrange for or establish credit or a loan extended by a third
38 party for a patient without first providing the following written or
39 electronic notice, on one page or screen, respectively, in at least
40 14-point type, and obtaining a signature from the patient:

1
2 “Credit or Loan for ~~Medical~~ *Health Care* Services

3 The attached application and information is for a credit card/line
4 of credit or loan to help you finance your ~~medical~~ *health care*
5 treatment. You should know that:

6 You are applying for a ____ credit card/line of credit or a
7 ____ loan for \$____.

8 You do not have to apply for the credit card/line of credit or
9 loan. You may pay your ~~medical~~ *health care* provider for treatment
10 in another manner.

11 This credit card/line of credit or loan is not a payment plan with
12 the provider’s office; it is credit with, or a loan made by, [name
13 of company issuing the credit card/line of credit or loan]. Your
14 ~~medical~~ *health care* provider does not work for this company.

15 Before applying for this credit card/line of credit or loan, you
16 have the right to a written treatment plan from your ~~medical~~ *health*
17 *care* provider that includes the anticipated treatment to be provided
18 and the estimated costs of each service.

19 If you are approved for a credit card/line of credit or loan, your
20 ~~medical~~ *health care* provider can only charge treatment and
21 laboratory costs to that credit card/line of credit or loan when you
22 get the treatment or the ~~medical~~ *health care* provider incurs costs
23 unless your ~~medical~~ *health care* provider has first given you a list
24 of treatments that you are paying for in advance and the cost for
25 each treatment or service.

26 You have the right to receive a credit to your credit card/line of
27 credit or loan account refunded for any costs charged to the credit
28 card/line of credit or loan for treatment that has not been rendered
29 or costs that your ~~medical~~ *health care* provider has not incurred.
30 Your ~~medical~~ *health care* provider must refund the amount of the
31 charges to the lender within 15 business days of your request, after
32 which the lender will credit your account.

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

35 You may be required to pay interest rates on the amount charged
36 to the credit card/line of credit or the amount of the loan. If you
37 miss a payment or do not pay on time, you may have to pay a
38 penalty on the entire cost of your procedure and a higher interest
39 rate.

1 You may use this credit card/line of credit or loan for payments
2 toward subsequent ~~medical~~ *health care* services.

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

7 _____
8 [Patient’s Signature]”
9

10 (e) Prior to arranging for or establishing credit or a loan extended
11 by a third party, a licensee shall give a patient a written treatment
12 plan. The treatment plan shall include each anticipated service to
13 be provided and the estimated cost of each service. If a patient is
14 covered by a private or government medical benefit plan or medical
15 insurance, from which the licensee takes assignment of benefits,
16 the treatment plan shall indicate the patient’s private or
17 government-estimated share of cost for each service. If the licensee
18 does not take assignment of benefits from a patient’s medical
19 benefit plan or insurance, the treatment plan shall indicate that the
20 treatment may or may not be covered by a patient’s medical benefit
21 or insurance plan, and that the patient has the right to confirm
22 medical benefit or insurance information from the patient’s plan,
23 insurer, or employer before beginning treatment.

24 (f) A licensee, or an employee or agent of that licensee, shall
25 not arrange for or establish credit or a loan extended by a third
26 party for a patient with whom the licensee, or an employee or agent
27 of that licensee, communicates primarily in a language other than
28 English that is one of the Medi-Cal threshold languages, unless
29 the written notice information required by subdivision (d) is also
30 provided in that language.

31 (g) A licensee, or an employee or agent of that licensee, shall
32 not arrange for or establish credit or a loan that is extended by a
33 third party for a patient who has been administered or is under the
34 influence of general anesthesia, conscious sedation, or nitrous
35 oxide.

36 (h) A patient who suffers any damage as a result of the use or
37 employment by any person of a method, act, or practice that
38 willfully violates this section may seek the relief provided by

1 Chapter 4 (commencing with Section 1780) of Title 1.5 of Part 4
2 of Division 3 of the Civil Code.

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

6 SEC. 3. 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.