

AMENDED IN SENATE JUNE 13, 2016

AMENDED IN ASSEMBLY MAY 9, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 13, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1954**

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**Introduced by Assembly Member Burke**

February 12, 2016

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An act to add Section 1367.31 to the Health and Safety Code, and to add Section 10123.202 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1954, as amended, Burke. Health care coverage: reproductive health care services.

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 provides for the regulation of health insurers by the Department of Insurance.

This bill would prohibit every health care service plan contract or health insurance policy issued, amended, renewed, or delivered on or after January 1, 2017, with exceptions, from requiring an enrollee or insured to receive a referral in order to receive reproductive or sexual health care services, as defined. *services, as provided.* Because a willful violation of these provisions by a health care service plan would be a crime, the 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. This act shall be known and may be cited as the  
2 Direct Access to Reproductive Health Care Act.

3 SEC. 2. (a) The Legislature hereby finds and declares all of  
4 the following:

5 (1) For many women, reproductive health care is ~~primary health~~  
6 ~~care~~. *may be the only contact they have with the health care system.*

7 (2) According to the Guttmacher Institute, one-half of all  
8 pregnancies in the United States each year, more than three million  
9 pregnancies, are unintended. By 45 years of age, more than one-half  
10 of all women in the United States will have experienced an  
11 unintended pregnancy, and ~~three~~ 3 in 10 will have had an abortion.

12 (3) The inability to access comprehensive reproductive health  
13 care in a timely manner can lead to negative health outcomes,  
14 including increased risk for unintended pregnancy, sexually  
15 transmitted diseases, and delayed care for critical and time-sensitive  
16 reproductive health services.

17 (4) Providing timely access to comprehensive reproductive  
18 health services is cost effective.

19 (5) California has a long history of, and commitment to,  
20 expanding access to services that aim to reduce the risk of  
21 unintended pregnancies, improve reproductive and sexual health  
22 outcomes, and reduce costs.

23 ~~(6) The Legislature has also passed measures to help health plan~~  
24 ~~enrollees and insureds access timely health care by setting~~  
25 ~~standards and policies regarding wait times for an appointment.~~

26 (6) *Recognizing the importance of timely access to*  
27 *comprehensive reproductive and sexual health care services, the*  
28 *Legislature and the United States Congress passed measures to*  
29 *enable women to access care provided by an obstetrician and*  
30 *gynecologist without a referral. Despite these advances, there are*

1 *wide variances in health benefit plans regarding referral*  
2 *requirements for reproductive and sexual health care services,*  
3 *and women across the state are obtaining these vital services from*  
4 *other licensed provider types, including family practice physicians,*  
5 *nurse practitioners, physician assistants, and certified*  
6 *nurse-midwives.*

7 (b) It is hereby the intent of the Legislature in enacting this act  
8 to build on current state and federal law to increase timely, equal,  
9 and direct access to time-sensitive and comprehensive reproductive  
10 and sexual health care services for enrollees in health care service  
11 plans or insureds under health insurance policies by prohibiting  
12 health care service plans or insurers from requiring an enrollee or  
13 insured to secure a referral from a primary care provider prior to  
14 receiving in-network reproductive and sexual health care services.

15 SEC. 3. Section 1367.31 is added to the Health and Safety  
16 Code, to read:

17 1367.31. (a) Every health care service plan contract issued,  
18 amended, renewed, or delivered on or after January 1, 2017, shall  
19 be prohibited from requiring an enrollee to receive a referral prior  
20 to receiving coverage or services for reproductive and sexual health  
21 care.

22 (b) (1) For the purposes of this section, “reproductive and sexual  
23 health care services” are all reproductive and sexual health services  
24 described in Sections 6925, 6926, 6927, and 6928 of the Family  
25 Code, or Section 121020 of the Health and Safety Code, obtained  
26 by a patient.

27 (2) This section applies whether or not the patient is a minor.

28 (c) *In implementing this section, a health care service plan may*  
29 *establish reasonable provisions governing utilization protocols*  
30 *for obtaining reproductive and sexual health care services, as*  
31 *provided for in subdivision (a), from health care providers*  
32 *participating in, or contracting with, the plan network, medical*  
33 *group, or independent practice association, provided that these*  
34 *provisions shall be consistent with the intent of this section and*  
35 *shall be those customarily applied to other health care providers,*  
36 *such as primary care physicians and surgeons, to whom the*  
37 *enrollee has direct access, and shall not be more restrictive for*  
38 *the provision of reproductive and sexual health care services. An*  
39 *enrollee shall not be required to obtain prior approval from*  
40 *another physician, another provider, or the health care service*

1 *plan prior to obtaining direct access to reproductive and sexual*  
2 *health care services. A health care service plan may establish*  
3 *provisions governing communication with the enrollee’s primary*  
4 *care physician and surgeon regarding the enrollee’s condition,*  
5 *treatment, and any need for follow-up care.*

6 *(d) A health care service plan subject to this section shall not*  
7 *impose utilization protocols related to contraceptive drugs,*  
8 *supplies, and devices beyond the provisions outlined in Section*  
9 *1367.25 of this code or Section 14132 of the Welfare and*  
10 *Institutions Code.*

11 ~~(e)~~

12 *(e) This section shall not apply to specialized health care service*  
13 *plan contracts or any health care service plan that is governed by*  
14 *Section 14131 of the Welfare and Institutions Code.*

15 SEC. 4. Section 10123.202 is added to the Insurance Code, to  
16 read:

17 10123.202. (a) Every health insurance policy issued, amended,  
18 renewed, or delivered on or after January 1, 2017, excluding  
19 specialized health insurance policies, shall be prohibited from  
20 requiring an insured to receive a referral prior to receiving coverage  
21 or services for reproductive and sexual health care.

22 (b) (1) For the purposes of this section, “reproductive and sexual  
23 health care services” are all reproductive and sexual health services  
24 described in Sections 6925, 6926, 6927, and 6928 of the Family  
25 Code, or Section 121020 of the Health and Safety Code, obtained  
26 by a patient.

27 (2) This section applies whether or not the patient is a minor.

28 *(c) In implementing this section, a health insurer may establish*  
29 *reasonable provisions governing utilization protocols for obtaining*  
30 *reproductive and sexual health care services, as provided for in*  
31 *subdivision (a), provided that these provisions shall be consistent*  
32 *with the intent of this section and shall be those customarily applied*  
33 *to other health care providers, such as primary care physicians*  
34 *and surgeons, to whom the insured has direct access, and shall*  
35 *not be more restrictive for the provision of reproductive and sexual*  
36 *health care services. An insured shall not be required to obtain*  
37 *prior approval from another physician, another provider, or the*  
38 *insurer prior to obtaining direct access to reproductive and sexual*  
39 *health care services. An insurer may establish provisions governing*  
40 *communication with the insured’s primary care physician and*

1 *surgeon regarding the insured's condition, treatment, and any*  
2 *need for followup care.*

3 *(d) A health insurer subject to this section shall not impose*  
4 *utilization protocols related to contraceptive drugs, supplies, and*  
5 *devices beyond the provisions outlined in Section 10123.196.*

6 *(e) This section shall not apply to specialized health insurance,*  
7 *Medicare supplement insurance, short-term limited duration health*  
8 *insurance, CHAMPUS supplement insurance, or TRI-CARE*  
9 *supplement insurance, or to hospital indemnity, accident-only, or*  
10 *specified disease insurance.*

11 SEC. 5. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.