

ASSEMBLY BILL

No. 1977

Introduced by Assembly Members Wood and Waldron

February 16, 2016

An act to add Section 1367.217 to the Health and Safety Code, and to add Section 10123.203 to the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1977, as introduced, Wood. Health coverage: abuse-deterrent opioid analgesics.

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 that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. These provisions require specified services and drugs to be covered by the various health care service plans and health insurers.

This bill would require an individual or group health care service plan or disability insurance policy issued, amended, or renewed after January 1, to provide coverage on its formulary, drug list, or other lists of similar construct for at least one abuse-deterrent opioid analgesic drug product per opioid analgesic active ingredient. The bill would require that the total amount of copayments and coinsurance an enrollee or insured is required to pay for brand name abuse-deterrent opioid analgesic drug products covered pursuant to the bill not exceed the lowest cost-sharing level applied to brand name or generic prescription drugs covered under the applicable health care service plan or insurer, as specified. The bill would prohibit a health care service plan or insurer from requiring an

enrollee or an insured to first use a non-abuse-deterrent opioid analgesic drug product before providing coverage for an abuse-deterrent opioid analgesic drug product, subject to uniformly applied utilization review requirements described in the bill.

Because a willful violation of these requirements with respect to health care service plans 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. The Legislature finds and declares as follows:
- 2 (a) Abuse and misuse of opioids is a serious problem that affects
- 3 the health, social, and economic welfare of the state.
- 4 (b) After alcohol, prescription drugs are the most commonly
- 5 abused substances by Americans over 12 years of age.
- 6 (c) Almost 2,000,000 people in the United States suffer from
- 7 substance use disorders related to prescription opioid pain relievers.
- 8 (d) Nonmedical use of prescription opioid pain relievers can be
- 9 particularly dangerous when the products are manipulated for
- 10 snorting, injection, or combination with other drugs.
- 11 (e) Deaths involving prescription opioid pain relievers represent
- 12 the largest proportion of drug overdose deaths, greater than the
- 13 number of overdose deaths involving heroin or cocaine.
- 14 (f) The number of unintentional overdose deaths involving
- 15 prescription opioid pain relievers has more than quadrupled since
- 16 1999.
- 17 SEC. 2. Section 1367.217 is added to the Health and Safety
- 18 Code, to read:
- 19 1367.217. (a) Notwithstanding any other law, an individual
- 20 or group health care service plan issued, amended, or renewed on
- 21 or after January 1, that provides coverage for an opioid analgesic
- 22 drug product shall comply with all of the following:

1 (1) The plan shall provide coverage on its formulary, drug list,
2 or other lists of similar construct for at least one abuse-deterrent
3 opioid analgesic drug product per opioid analgesic active
4 ingredient.

5 (2) Notwithstanding any deductible, the total amount of
6 copayments and coinsurance an enrollee is required to pay for
7 brand name abuse-deterrent opioid analgesic drug products covered
8 pursuant to this section shall not exceed the lowest cost-sharing
9 level applied to brand name prescription drugs covered under the
10 applicable health care service plan.

11 (3) Notwithstanding any deductible, the total amount of
12 copayments and coinsurance an enrollee is required to pay for
13 generic abuse-deterrent opioid analgesic drug products covered
14 pursuant to this section shall not exceed the lowest cost-sharing
15 level applied to generic prescription drugs covered under the
16 applicable health care service plan.

17 (4) The plan shall not require an enrollee to first use a
18 non-abuse-deterrent opioid analgesic drug product before providing
19 coverage for an abuse-deterrent opioid analgesic drug product.
20 This paragraph shall not be construed to prevent a health care
21 service plan from applying utilization review requirements,
22 including prior authorization, to abuse-deterrent opioid analgesic
23 drug products, provided that those requirements are applied to all
24 opioid analgesic drug products with the same type of drug release,
25 immediate or extended.

26 (b) The following definitions shall apply for purposes of this
27 section:

28 (1) "Abuse-deterrent opioid analgesic drug product" means a
29 brand or generic opioid analgesic drug product approved by the
30 federal Food and Drug Administration (FDA) with
31 abuse-deterrence labeling claims indicating its abuse-deterrent
32 properties are expected to deter or reduce its abuse.

33 (2) "Cost sharing" means any coverage limit, copayment,
34 coinsurance, deductible, or other out-of-pocket expense
35 requirement.

36 (3) "Opioid analgesic drug product" means a drug product that
37 contains an opioid agonist and that is indicated by the FDA for the
38 treatment of pain, whether in an immediate release or extended
39 release formulation and whether or not the drug product contains
40 any other drug substance.

1 SEC. 3. Section 10123.203 is added to the Insurance Code, to
2 read:

3 10123.203. (a) Notwithstanding any other law, an insurer
4 issuing, amending, or renewing a policy of individual or group
5 disability insurance on or after January 1, that provides coverage
6 for an opioid analgesic drug product shall comply with all of the
7 following:

8 (1) The insurer shall provide coverage on its formulary, drug
9 list, or other lists of similar construct for at least one
10 abuse-deterrent opioid analgesic drug product per opioid analgesic
11 active ingredient.

12 (2) Notwithstanding any deductible, the total amount of
13 copayments and coinsurance an insured is required to pay for brand
14 name abuse-deterrent opioid analgesic drug products covered
15 pursuant to this section shall not exceed the lowest cost-sharing
16 level applied to brand name prescription drugs covered under the
17 applicable policy.

18 (3) Notwithstanding any deductible, the total amount of
19 copayments and coinsurance an insured is required to pay for
20 generic abuse-deterrent opioid analgesic drug products covered
21 pursuant to this section shall not exceed the lowest cost-sharing
22 level applied to generic prescription drugs covered under the
23 applicable policy.

24 (4) The insurer shall not require an insured to first use a
25 non-abuse-deterrent opioid analgesic drug product before providing
26 coverage for an abuse-deterrent opioid analgesic drug product.
27 This paragraph shall not be construed to prevent an insurer from
28 applying utilization review requirements, including prior
29 authorization, to abuse-deterrent opioid analgesic drug products,
30 provided that those requirements are applied to all opioid analgesic
31 drug products with the same type of drug release, immediate or
32 extended.

33 (b) The following definitions shall apply for purposes of this
34 section:

35 (1) "Abuse-deterrent opioid analgesic drug product" means a
36 brand or generic opioid analgesic drug product approved by the
37 federal Food and Drug Administration (FDA) with
38 abuse-deterrence labeling claims indicating its abuse-deterrent
39 properties are expected to deter or reduce its abuse.

1 (2) “Cost sharing” means any coverage limit, copayment,
2 coinsurance, deductible, or other out-of-pocket expense
3 requirement.

4 (3) “Opioid analgesic drug product” means a drug product that
5 contains an opioid agonist and that is indicated by the FDA for the
6 treatment of pain, whether in an immediate release or extended
7 release formulation and whether or not the drug product contains
8 any other drug substance.

9 SEC. 4. 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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