

AMENDED IN ASSEMBLY APRIL 27, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2436

Introduced by Assembly Member Roger Hernández

February 19, 2016

An act to add Section 1367.207 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 2436, as amended, Roger Hernández. Health care coverage: disclosures: drug pricing.

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 also provides for the regulation of health insurers by the Department of Insurance. Existing law imposes various requirements on contracts and policies that cover prescription drug benefits.

This bill would require a health care service plan contract or a policy of health insurance that is issued, amended, or renewed on or after January 1, 2017, and that provides coverage for prescription drug benefits to notify the enrollee or insured, at the time that a prescription drug is delivered or within 30 days of purchase, of specified information related to the cost of the prescription drug. ~~The bill would require a health care service plan or a health insurer, in contracting with a pharmaceutical manufacturer for the purchase of a prescription drug,~~

~~to require the manufacturer to disclose to the plan or insurer the cost of the prescription drug in United States dollars in Canada, Germany, and Mexico. The bill would require the Department of Managed Health Care to adopt regulations relating to these requirements, as specified.~~ The bill would make related legislative findings and declarations. Because a willful violation of the bill's requirements 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. (a) The Legislature finds and declares that the
2 escalating cost of prescription drugs is a major concern for
3 Californians.

4 (b) It is the intent of the Legislature in enacting this bill to
5 provide consumers with information about the cost of prescription
6 drugs, including the cost to the health plan or insurer and the cost
7 in other countries.

8 (c) It is not the intent of the Legislature in enacting this bill to
9 encourage Californians to purchase or otherwise obtain prescription
10 drugs from other countries in violation of federal law.

11 SEC. 2. Section 1367.207 is added to the Health and Safety
12 Code, immediately following Section 1367.205, to read:

13 1367.207. ~~(a)~~—A health care service plan contract issued,
14 amended, or renewed on or after January 1, 2017, that provides
15 coverage for prescription drug benefits shall require the plan to
16 notify the enrollee of the following at the time of delivery or within
17 30 days of purchase of a prescription drug:

18 ~~(1)~~

19 (a) The enrollee's share of the cost for the prescription drug,
20 including any copayment, coinsurance, or other cost sharing, and
21 the accumulation of that cost sharing to the enrollee's deductible,
22 if any, or out-of-pocket maximum. *The Department of Managed*

1 *Health Care shall adopt regulations regarding the manner in*
2 *which plans will implement these requirements by January 1, 2018.*

3 ~~(2) The cost of the prescription drug to the plan, after applying~~
4 ~~any discounts, rebates, or other reductions in cost to the plan.~~

5 ~~(3) The cost of the prescription drug in United States dollars in~~
6 ~~the following countries:~~

7 ~~(A) Canada.~~

8 ~~(B) Germany.~~

9 ~~(C) Mexico.~~

10 ~~(b) In contracting with a pharmaceutical manufacturer for the~~
11 ~~purchase of a prescription drug, a health care service plan or its~~
12 ~~contracting pharmacy benefits manager, if any, shall require the~~
13 ~~pharmaceutical manufacturer to disclose to the plan the cost of the~~
14 ~~prescription drug in United States dollars in Canada, Germany,~~
15 ~~and Mexico. If the pharmaceutical manufacturer fails to provide~~
16 ~~that information, the health care service plan may take that failure~~
17 ~~into account in determining whether to include the prescription~~
18 ~~drug in the plan's drug formulary or in which tier of the plan's~~
19 ~~drug formulary to place the prescription drug.~~

20 ~~(b) The publicly available, nonproprietary wholesale acquisition~~
21 ~~cost (WAC) of a prescription drug.~~

22 SEC. 3. Section 10123.202 is added to the Insurance Code,
23 immediately following Section 10123.201, to read:

24 10123.202. ~~(a)~~—A policy of health insurance issued, amended,
25 or renewed on or after January 1, 2017, that provides coverage for
26 prescription drug benefits shall require the insurer to notify the
27 insured of the following at the time of delivery or within 30 days
28 of purchase of a prescription drug:

29 ~~(1)~~

30 ~~(a) The insured's share of the cost for the prescription drug,~~
31 ~~including any copayment, coinsurance, or other cost sharing, and~~
32 ~~the accumulation of that cost sharing to the insured's deductible,~~
33 ~~if any, or out-of-pocket maximum.~~

34 ~~(2) The cost of the prescription drug to the insurer, after applying~~
35 ~~any discounts, rebates, or other reductions in cost to the insurer.~~

36 ~~(3) The cost of the prescription drug in United States dollars in~~
37 ~~the following countries:~~

38 ~~(A) Canada.~~

39 ~~(B) Germany.~~

40 ~~(C) Mexico.~~

1 ~~(b) In contracting with a pharmaceutical manufacturer for the~~
2 ~~purchase of a prescription drug, a health insurer or its contracting~~
3 ~~pharmacy benefits manager, if any, shall require the pharmaceutical~~
4 ~~manufacturer to disclose to the insurer the cost of the prescription~~
5 ~~drug in United States dollars in Canada, Germany, and Mexico.~~
6 ~~If the pharmaceutical manufacturer fails to provide that~~
7 ~~information, the health insurer may take that failure into account~~
8 ~~in determining whether to include the prescription drug in the~~
9 ~~insurer's drug formulary or in which tier of the insurer's drug~~
10 ~~formulary to place the prescription drug.~~

11 ~~(b) The publicly available, nonproprietary wholesale acquisition~~
12 ~~cost (WAC) of a prescription drug.~~

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.