

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN ASSEMBLY MAY 27, 2015

**SENATE BILL**

**No. 260**

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**Introduced by Senator Monning**

February 18, 2015

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An act to amend Section 10820 of the Corporations Code, to amend Sections 1343 and 101750.5 of the Health and Safety Code, and to amend Section 14499.5 of, and to repeal and add Section 14087.95 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 260, as amended, Monning. Medi-Cal: county organized health systems: pilot programs.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One method by which these services are provided is pursuant to contracts with various types of managed care health plans, including through a county organized health system.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene), 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 the California Medical Assistance Commission with the authority to negotiate exclusive contracts with county organized health systems to provide health care services under the Medi-Cal

program. Under existing law, the contracting counties are exempt from Knox-Keene for purposes of carrying out those contracts.

This bill would repeal that exemption and ~~deleted~~ *delete* related exemptions, deem a county contracting with the department under the provisions described above to be a health care service ~~plan~~, *plan as of specified dates*, and subject contracting counties to the act for purposes of carrying out those contracts, unless the act expressly provides otherwise. The bill would make conforming changes.

Because a willful violation of Knox-Keene is 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 10820 of the Corporations Code is  
2 amended to read:

3 10820. (a) “Health care service plan,” as used in this section  
4 means a corporation that is a health care service plan defined in  
5 the Knox-Keene Health Care Service Plan Act of 1975 (Chapter  
6 2.2 (commencing with Section 1340) of Division 2 of the Health  
7 and Safety Code), other than a corporation that is exempted from  
8 that act by subdivision (c) of Section 1343 of the Health and Safety  
9 Code.

10 (b) A health care service plan may be formed under or subject  
11 to Part 2 (commencing with Section 5110) of this division or Part  
12 3 (commencing with Section 7110) of this division.

13 SEC. 2. Section 1343 of the Health and Safety Code is amended  
14 to read:

15 1343. (a) This chapter shall apply to health care service plans  
16 and specialized health care service plan contracts as defined in  
17 subdivisions (f) and (o) of Section 1345.

18 (b) The director may by the adoption of rules or the issuance of  
19 orders deemed necessary and appropriate, either unconditionally  
20 or upon specified terms and conditions or for specified periods,

1 exempt from this chapter any class of persons or plan contracts if  
2 the director finds the action to be in the public interest and not  
3 detrimental to the protection of subscribers, enrollees, or persons  
4 regulated under this chapter, and that the regulation of the persons  
5 or plan contracts is not essential to the purposes of this chapter.

6 (c) Upon the request of the Director of Health Care Services,  
7 the director may exempt from this chapter any mental health plan  
8 contractor or any capitated rate contract under Chapter 8.9  
9 (commencing with Section 14700) of Part 3 of Division 9 of the  
10 Welfare and Institutions Code. Those exemptions may be subject  
11 to conditions the Director of Health Care Services deems  
12 appropriate.

13 (d) This chapter shall not apply to:

14 (1) A person organized and operating pursuant to a certificate  
15 issued by the Insurance Commissioner unless the entity is directly  
16 providing the health care service through those entity-owned or  
17 contracting health facilities and providers, in which case this  
18 chapter shall apply to the insurer's plan and to the insurer.

19 (2) A plan directly operated by a bona fide public or private  
20 institution of higher learning which directly provides health care  
21 services only to its students, faculty, staff, administration, and their  
22 respective dependents.

23 (3) A person who does all of the following:

24 (A) Promises to provide care for life or for more than one year  
25 in return for a transfer of consideration from, or on behalf of, a  
26 person 60 years of age or older.

27 (B) Has obtained a written license pursuant to Chapter 2  
28 (commencing with Section 1250) or Chapter 3.2 (commencing  
29 with Section 1569).

30 (C) Has obtained a certificate of authority from the State  
31 Department of Social Services.

32 (4) The Major Risk Medical Insurance Board when engaging  
33 in activities under Chapter 8 (commencing with Section 10700)  
34 of Part 2 of Division 2 of the Insurance Code, Part 6.3  
35 (commencing with Section 12695) of Division 2 of the Insurance  
36 Code, and Part 6.5 (commencing with Section 12700) of Division  
37 2 of the Insurance Code.

38 (5) The California Small Group Reinsurance Fund.

39 SEC. 3. Section 101750.5 of the Health and Safety Code is  
40 amended to read:

1 101750.5. For the purposes of Division 3.6 (commencing with  
2 Section 810) of Title 1 of the Government Code, the authority shall  
3 be considered a public entity separate from the county or counties  
4 and shall file the statement required by Section 53051 of the  
5 Government Code.

6 SEC. 4. Section 14087.95 of the Welfare and Institutions Code  
7 is repealed.

8 SEC. 5. Section 14087.95 is added to the Welfare and  
9 Institutions Code, to read:

10 14087.95. ~~A~~—(a) *Subject to subdivision (b), a county*  
11 *contracting with the department pursuant to this article shall be*  
12 *deemed to be a health care service plan, as defined in Section 1345*  
13 *of the Health and Safety Code, and shall be subject to the*  
14 *Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2*  
15 *(commencing with Section 1340) of Division 2 of the Health and*  
16 *Safety Code) for the purpose of carrying out those contracts, unless*  
17 *the act expressly provides otherwise.*

18 (b) (1) *A county organized health system under subdivision (a)*  
19 *that holds a license under the Knox-Keene Health Care Service*  
20 *Plan Act of 1975 on December 31, 2015, to provide the product*  
21 *described in subdivision (a), shall be subject to this section on and*  
22 *after January 1, 2016.*

23 (2) *A county organized health system under subdivision (a) that*  
24 *holds a license under the Knox-Keene Health Care Service Plan*  
25 *Act of 1975 on December 31, 2015, for any product not described*  
26 *in subdivision (a) that is subject to the act, shall be subject to this*  
27 *section on and after January 1, 2017.*

28 (3) *A county organized health system under subdivision (a) that*  
29 *does not hold a license under the Knox-Keene Health Care Service*  
30 *Plan Act of 1975 on December 31, 2015, to provide the product*  
31 *described in subdivision (a) or any other product that is subject*  
32 *to the act, shall be subject to this section on and after July 1, 2017.*

33 SEC. 6. Section 14499.5 of the Welfare and Institutions Code  
34 is amended to read:

35 14499.5. (a) (1) In carrying out the intent of this article, the  
36 director shall contract for the operation of one local pilot program.  
37 Special consideration shall be given to approving a program  
38 contracted through county government in Santa Barbara County.

39 (2) Notwithstanding the limitations contained in Section 14490,  
40 the director may enter into, or extend, contracts with the local pilot

1 program in Santa Barbara County pursuant to paragraph (1) for  
2 periods that do not exceed three years.

3 (b) The establishment of a pilot program pursuant to this section  
4 shall be contingent upon the availability of state and federal  
5 funding. The program shall include the following components:

6 (1) Local authority for administration, fiscal management, and  
7 delivery of services, but not including eligibility determination.

8 (2) Physician case management.

9 (3) Cost containment through provider incentives and other  
10 means.

11 (c) The program for the pilot project shall include a plan and  
12 budget for delivery of services, administration, and evaluation.  
13 During the first year of the pilot program, the amount of the state  
14 contract shall equal 95 percent of total projected Medi-Cal  
15 expenditures for delivery of services and for administration based  
16 on fee-for-service conditions in the program county. During the  
17 remaining years of the pilot project Medi-Cal expenditures in the  
18 program county shall be no more than 100 percent of total projected  
19 expenditures for delivery of services and for administration based  
20 on any combination of the following paragraphs:

21 (1) Relevant prior fee-for-service Medi-Cal experience in the  
22 program county.

23 (2) The fee-for-service Medi-Cal experience in comparable  
24 counties or groups of counties.

25 (3) Medi-Cal experience of the pilot project in the program  
26 county if, as determined by the department, the scope, level, and  
27 duration of, and expenditures for, any services used in setting the  
28 rates under this paragraph would be comparable to fee-for-service  
29 conditions were they to exist in the program county and would be  
30 more actuarially reliable for use in ratesetting than data available  
31 for use in applying paragraph (1) or (2).

32 The projected total expenditure shall be determined annually  
33 according to an acceptable actuarial process. The data elements  
34 used by the department shall be shared with the proposed  
35 contractor.

36 (d) The director shall accept or reject the proposal within 30  
37 days after the date of receipt. If a decision is made to reject the  
38 proposal, the director shall set forth the reasons for this decision  
39 in writing. Upon approval of the proposal, a contract shall be  
40 written within 60 days. After signature by the local contractor, the

1 State Department of Health Care Services and the Department of  
2 General Services shall execute the contract within 60 days.

3 (e) The director shall seek the necessary state and federal  
4 waivers to enable operation of the program. If the federal waivers  
5 for delivery of services under this plan are not granted, the  
6 department is under no obligation to contract for implementation  
7 of the program.

8 (f) Dental services may be included within the services provided  
9 in this pilot program.

10 (g) Any federal demonstration funding for this pilot program  
11 shall be made available to the county within 60 days upon  
12 notification of the award without the state retaining any portion  
13 not previously specified in the grant application as submitted.

14 (h) (1) (A) The department may negotiate exclusive contracts  
15 and rates with the Santa Barbara Regional Health Authority in the  
16 implementation of this section.

17 (B) Contracts entered into under this article may be on a  
18 noncompetitive bid basis and shall be exempt from Chapter 2  
19 (commencing with Section 10290) of Part 2 of Division 2 of the  
20 Public Contract Code.

21 (C) The department shall enter into contracts pursuant to this  
22 article, and shall be bound by the terms and conditions related to  
23 the rates negotiated by the negotiator.

24 (2) The department shall implement this subdivision to the extent  
25 that the following apply:

26 (A) Its implementation does not revise the status of the pilot  
27 program as a federal demonstration project.

28 (B) Existing federal waivers apply to the pilot program as  
29 revised by this subdivision, or the federal government extends the  
30 applicability of the existing federal waivers or authorizes additional  
31 federal waivers for the implementation of the program.

32 (3) The implementation of this subdivision shall not affect the  
33 pilot program's having met any of the requirements of Part 3.5  
34 (commencing with Section 1175) of Division 1 of the Health and  
35 Safety Code and this division applicable to the pilot program with  
36 respect to the negotiations of contracts and rates by the department.

37 SEC. 7. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 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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