

Introduced by Senator MitchellFebruary 23, 2015

An act to add Section 1374.14 to the Health and Safety Code, and to add Section 10123.855 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 289, as introduced, Mitchell. Telephonic and electronic patient management 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 also provides for the regulation of health insurers by the Insurance Commissioner. Existing law prohibits a health care service plan or health insurer from requiring in-person contact between a health care provider and a patient before payment is made for covered services appropriately provided through telehealth, which is defined to mean the mode of delivering health care services via information and communication technologies, as specified.

This bill would require a health care service plan or a health insurer, with respect to plan contracts and policies issued, amended, or renewed on or after January 1, 2016, to cover telephonic and electronic patient management services, as defined, provided by a physician or nonphysician health care provider and reimburse those services based on their complexity and time expenditure. The bill would provide that a health care service plan or a health insurer is not required to reimburse separately for specified telephonic or electronic visits, including a telephonic or electronic visit provided as part of a bundle of services reimbursed in a specified manner. Because a willful violation of the

bill’s requirements by a health care service plan 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 1374.14 is added to the Health and Safety
2 Code, to read:

3 1374.14. (a) A health care service plan shall, with respect to
4 plan contracts issued, amended, or renewed on or after January 1,
5 2016, cover telephonic and electronic patient management services
6 provided by a physician or nonphysician health care provider and
7 reimburse those services based on their complexity and time
8 expenditure.

9 (b) This section shall not be construed to authorize a health care
10 service plan to require the use of telephonic and electronic patient
11 management services when the physician or nonphysician health
12 care provider has determined that those services are not medically
13 appropriate.

14 (c) This section shall not be construed to alter the scope of
15 practice of a health care provider or authorize the delivery of health
16 care services in a setting, or in a manner, that is not otherwise
17 authorized by law.

18 (d) All laws regarding the confidentiality of health information
19 and a patient’s rights to his or her medical information shall apply
20 to telephonic and electronic patient management services.

21 (e) This section shall not apply to a patient under the jurisdiction
22 of the Department of Corrections and Rehabilitation or any other
23 correctional facility.

24 (f) Notwithstanding subdivision (a), a health care service plan
25 shall not be required to reimburse separately for any of the
26 following:

27 (1) A telephonic or electronic visit that is related to a service or
28 procedure provided to an established patient within a reasonable

1 period of time prior to the telephonic or electronic visit, as
2 recognized by the American Medical Association, Current
3 Procedural Terminology codes.

4 (2) A telephonic or electronic visit that leads to a related service
5 or procedure provided to an established patient within a reasonable
6 period of time, or within an applicable postoperative period, as
7 recognized by the American Medical Association, Current
8 Procedural Terminology codes.

9 (3) A telephonic or electronic visit provided as part of a bundle
10 of services for which reimbursement is provided for on a prepaid
11 basis, including capitation, or for which reimbursement is provided
12 for using an episode-based payment methodology.

13 (4) A telephonic or electronic visit that is not initiated by the
14 established patient, or the parents or guardians of a minor who is
15 an established patient, or an established patient’s legally recognized
16 health care decisionmaker.

17 (g) Nothing in this section shall be construed to prohibit a health
18 care service plan from requiring documentation reasonably relevant
19 to a telephonic or electronic visit, as recognized by the American
20 Medical Association, Current Procedural Terminology codes.

21 (h) For purposes of this section, the following definitions apply:

22 (1) “Established patient” means a patient who, within three
23 years immediately preceding the telephonic or electronic visit, has
24 received professional services from the provider or another provider
25 of the exact same specialty and subspecialty who belongs to the
26 same group practice.

27 (2) “Nonphysician health care provider” means a provider, other
28 than a physician, who is licensed pursuant to Division 2
29 (commencing with Section 500) of the Business and Professions
30 Code.

31 (3) “Telephonic and electronic patient management services”
32 means the use of electronic communication tools to enable treating
33 physicians to evaluate and manage established patients in a manner
34 that meets all of the following criteria:

35 (A) Do not require a face-to-face visit with the physician or
36 nonphysician health care provider.

37 (B) Are initiated by the established patient, the parents or
38 guardians of a minor who is an established patient, or an established
39 patient’s legally recognized health care decisionmaker. For
40 purposes of this section, “initiated by the established patient”

1 excludes a visit for which a provider or staff contacts a patient to
2 initiate a service.

3 (C) Are recognized by the American Medical Association,
4 Current Procedural Terminology codes.

5 SEC. 2. Section 10123.855 is added to the Insurance Code, to
6 read:

7 10123.855. (a) A health insurer shall, with respect to health
8 insurance policies issued, amended, or renewed on or after January
9 1, 2016, cover telephonic and electronic patient management
10 services provided by a physician or nonphysician health care
11 provider and reimburse those services based on their complexity
12 and time expenditure.

13 (b) This section shall not be construed to authorize a health
14 insurer to require the use of telephonic and electronic patient
15 management services when the physician or nonphysician health
16 care provider has determined that those services are not medically
17 appropriate.

18 (c) This section shall not be construed to alter the scope of
19 practice of a health care provider or authorize the delivery of health
20 care services in a setting, or in a manner, that is not otherwise
21 authorized by law.

22 (d) All laws regarding the confidentiality of health information
23 and a patient’s rights to his or her medical information shall apply
24 to telephonic and electronic patient management services.

25 (e) This section shall not apply to a patient under the jurisdiction
26 of the Department of Corrections and Rehabilitation or any other
27 correctional facility.

28 (f) Notwithstanding subdivision (a), a health insurer shall not
29 be required to reimburse separately for any of the following:

30 (1) A telephonic or electronic visit that is related to a service or
31 procedure provided to an established patient within a reasonable
32 period of time prior to the telephonic or electronic visit, as
33 recognized by the American Medical Association, Current
34 Procedural Terminology codes.

35 (2) A telephonic or electronic visit that leads to a related service
36 or procedure provided to an established patient within a reasonable
37 period of time, or within an applicable postoperative period, as
38 recognized by the American Medical Association, Current
39 Procedural Terminology codes.

1 (3) A telephonic or electronic visit provided as part of a bundle
2 of services for which separate reimbursement is not consistent
3 with the American Medical Association, Current Procedural
4 Terminology codes.

5 (4) A telephonic or electronic visit that is not initiated by the
6 established patient, the parents or guardians of a minor who is an
7 established patient, or an established patient’s legally recognized
8 health care decisionmaker.

9 (g) Nothing in this section shall be construed to prohibit a health
10 insurer from requiring documentation reasonably relevant to a
11 telephonic or electronic visit, as recognized by the American
12 Medical Association, Current Procedural Terminology codes.

13 (h) For purposes of this section, the following definitions apply:

14 (1) “Established patient” means a patient who, within the three
15 years immediately preceding the telephonic or electronic visit, has
16 received professional services from the provider, or another
17 provider of the exact same specialty and subspecialty who belongs
18 to the same group practice.

19 (2) “Nonphysician health care provider” means a provider, other
20 than a physician, who is licensed pursuant to Division 2
21 (commencing with Section 500) of the Business and Professions
22 Code.

23 (3) “Telephonic and electronic patient management services”
24 means the use of electronic communication tools to enable treating
25 physicians to evaluate and manage established patients in a manner
26 that meets all of the following criteria:

27 (A) Do not require a face-to-face visit with the physician or
28 nonphysician health care provider.

29 (B) Are initiated by the established patient, the parents or
30 guardians of a minor who is an established patient, or an established
31 patient’s legally recognized health care decisionmaker. For
32 purposes of this section, “initiated by the established patient”
33 excludes a visit for which a provider or staff contacts a patient to
34 initiate a service.

35 (C) Are recognized by the American Medical Association,
36 Current Procedural Terminology codes.

37 SEC. 3. 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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