

AMENDED IN SENATE MAY 4, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 289

Introduced by Senator Mitchell

February 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 amended, 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~~, 2017, to cover telephonic and electronic patient management services, as defined, provided by a *contracting* physician or *contracting* 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~~, 2017, cover telephonic and electronic patient management
- 6 services provided by a *contracting* physician or *contracting*
- 7 nonphysician health care provider and reimburse those services
- 8 based on their complexity and time 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.

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

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

9 (2) A telephonic or electronic visit that leads to a related service
10 or procedure provided to an established patient within a reasonable
11 period of time, or within an applicable postoperative period, as
12 recognized by the American Medical Association, Current
13 Procedural Terminology codes.

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

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

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

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

27 (1) “Established patient” means a patient who, within three
28 years immediately preceding the telephonic or electronic visit, has
29 received professional services from the provider or another provider
30 of the exact same specialty and subspecialty who belongs to the
31 same group practice.

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

36 (3) “Telephonic and electronic patient management services”
37 means the use of electronic communication tools to enable treating
38 physicians *and nonphysician health care providers* to evaluate and
39 manage established patients in a manner that meets all of the
40 following criteria:

1 (A) Does not require an in-person visit with the physician or
2 nonphysician health care provider.

3 (B) Are initiated by the established patient, the parents or
4 guardians of a minor who is an established patient, or an established
5 patient's legally recognized health care decisionmaker. For
6 purposes of this section, "initiated by the established patient"
7 excludes a visit for which a provider or staff contacts a patient to
8 initiate a service.

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

11 SEC. 2. Section 10123.855 is added to the Insurance Code, to
12 read:

13 10123.855. (a) A health insurer shall, with respect to health
14 insurance policies issued, amended, or renewed on or after January
15 1, ~~2016~~, 2017, cover telephonic and electronic patient management
16 services provided by a *contracting* physician or *contracting*
17 nonphysician health care provider and reimburse those services
18 based on their complexity and time expenditure.

19 (b) This section shall not be construed to authorize a health
20 insurer to require the use of telephonic and electronic patient
21 management services when the physician or nonphysician health
22 care provider has determined that those services are not medically
23 appropriate.

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

28 (d) All laws regarding the confidentiality of health information
29 and a patient's rights to his or her medical information shall apply
30 to telephonic and electronic patient management services.

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

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

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

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

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

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

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

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

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

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

28 (3) “Telephonic and electronic patient management services”
29 means the use of electronic communication tools to enable treating
30 physicians *and nonphysician health care providers* to evaluate and
31 manage established patients in a manner that meets all of the
32 following criteria:

33 (A) Does not require an in-person visit with the physician or
34 nonphysician health care provider.

35 (B) Are initiated by the established patient, the parents or
36 guardians of a minor who is an established patient, or an established
37 patient’s legally recognized health care decisionmaker. For
38 purposes of this section, “initiated by the established patient”
39 excludes a visit for which a provider or staff contacts a patient to
40 initiate a service.

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

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.