

AMENDED IN ASSEMBLY MARCH 29, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1272

Introduced by Assembly Member Valerie Brown

February 23, 1995

An act to amend Section 1349.2 of the Health and Safety Code, and to amend Section 740 of the Insurance Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1272, as amended, V. Brown. Public entity operation of employee health plan.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, with certain exceptions, requires licensure from the Commissioner of Corporations before any person may engage in the business of a plan, as defined, or receive advance or periodic consideration in connection with a plan from, or on behalf of, any persons.

Existing law provides an exception to the Knox-Keene Act licensure requirement for a health care service plan operated by any city, county, city and county, public entity, or political subdivision, that provides services only to its employees, their dependents, and retirees, but not the general public, provides funding for the program, and reimbursement on a fee-for-service basis. This exemption is in effect only until January 1, 1996. Existing law also requires that the Senate Office of Research conduct a study and report to the

Legislature no later than December 31, 1991, relating to this exemption.

This bill would, instead, grant an exemption from the Knox-Keene Act to any city, county, city and county, *local* public entity, ~~as defined~~, or political subdivision, that provides services only to its employees and their dependents, and retirees and their dependents, but not the general public, provides funding for the program, and files the appropriate annual financial transaction reports with the Controller pursuant to specified provisions of law, and meets certain other fiscal and consumer protection requirements. The bill would delete the requirement that the program provide reimbursement only on a fee-for-service basis, would delete the repeal date for this exemption, and would delete the requirement for the study and the report.

Existing law presumes that any person or entity that provides health coverage, whether the coverage is by direct payment, reimbursement, or otherwise, is subject to the jurisdiction of the Department of Insurance unless the person or entity shows that, while providing the services, the person or entity is subject to the jurisdiction of another state or federal entity.

This bill would, with certain exceptions relating to unfair or deceptive acts, exempt from the Insurance Code any health care service plan operated by any city, county, city and county, *local* public entity, or political subdivision that is exempt from the Knox-Keene Act pursuant to the above-described provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1349.2 of the Health and Safety
- 2 Code is amended to read:
- 3 1349.2. (a) A health care service plan operated by
- 4 any city, county, city and county, *local* public entity, or
- 5 political subdivision that satisfies all of the following
- 6 criteria is exempt from Section 1349:



1 (1) Provides services only to its employees, their
2 dependents, and retirees, but not to the general public.

3 (2) Provides funding for the program.

4 (3) Files the appropriate fiscal reports with the
5 Controller pursuant to Section 12463 of the Government
6 Code.

7 (4) Maintains fiscal solvency so that plan members are
8 not at risk, individually or collectively, for extraordinary
9 claims.

10 (5) Ensures that the health care plans purchased or
11 operated by the public entity meet applicable benefit and
12 consumer protection standards of this chapter, the
13 Insurance Code, or other applicable California statutes,
14 whichever is appropriate.

15 (b) In order to provide maximum flexibility to meet
16 the circumstances of local public entities and their
17 workers, collective bargaining agreements may specify
18 alternative methods by which the local entity complies
19 with paragraphs (4) and (5) of subdivision (a), or other
20 actions by the public employer on behalf of
21 unrepresented public employees.

22 SEC. 2. Section 740 of the Insurance Code is amended
23 to read:

24 740. (a) Notwithstanding any other provision of law,
25 and except as provided herein, any person or other entity
26 that provides coverage in this state for medical, surgical,
27 chiropractic, physical therapy, speech pathology,
28 audiology, professional mental health, dental, hospital, or
29 optometric expenses, whether the coverage is by direct
30 payment, reimbursement, or otherwise, shall be
31 presumed to be subject to the jurisdiction of the
32 department unless the person or other entity shows that
33 while providing the services it is subject to the jurisdiction
34 of another agency of this or another state or the federal
35 government.

36 (b) A person or entity may show that it is subject to the
37 jurisdiction of another agency of this or another state or
38 the federal government by providing to the
39 commissioner the appropriate certificate or license
40 issued by the other governmental agency that permits or



1 qualifies it to provide those services for which it is
2 licensed or certificated.

3 (c) Any person or entity that is unable to show that it
4 is subject to the jurisdiction of another agency of this or
5 another state or the federal government, shall submit to
6 an examination by the commissioner to determine the
7 organization and solvency of the person or the entity, and
8 to determine whether the person or entity is in
9 compliance with the applicable provisions of this code,
10 and shall be required to obtain a certificate of authority
11 to do business in California and be required to meet all
12 appropriate reserve, surplus, capital, and other necessary
13 requirements imposed by this code for all insurers.

14 (d) Any person or entity unable to show that it is
15 subject to the jurisdiction of another agency of this or
16 another state or the federal government shall be subject
17 to all appropriate provisions of this code regarding the
18 conduct of its business.

19 (e) The department shall prepare and maintain for
20 public inspection a list of those persons or entities
21 described in subdivision (a) that are not subject to the
22 jurisdiction of another agency of this or another state or
23 the federal government and that the department knows
24 to be operating in this state. There shall be no liability of
25 any kind on the part of the state, the department, and its
26 employees for the accuracy of the list or for any
27 comments made with respect to it.

28 (f) Any administrator licensed by the department who
29 advertises or administers coverage in this state described
30 in subdivision (a), that is provided by any person or entity
31 described in subdivision (c), and where the coverage
32 does not meet all pertinent requirements specified in this
33 code and that is not provided or completely
34 underwritten, insured or otherwise fully covered by an
35 admitted life or disability insurer, hospital service plan or
36 health care service plan, shall advise and disclose to any
37 purchaser, prospective purchaser, covered person or
38 entity, and any production agency licensed by the
39 department involved in the transaction, all financial and
40 operational information relative to the content and scope



1 of the plan and, specifically, as to the lack of insurance or
2 other coverage.

3 Any production agency obtaining knowledge of any
4 coverage relative to the content and scope of a hospital
5 service plan or health care service plan, as required under
6 this subdivision, shall advise and disclose to any
7 purchaser, prospective purchaser, covered person or
8 entity, the knowledge regarding the content and scope of
9 the plan and, specifically, as to the lack of insurance by an
10 admitted carrier or other qualified plan.

11 (g) A health care service plan, as defined in Chapter
12 2.2 (commencing with Section 1340) of Division 2 of the
13 Health and Safety Code, shall not be subject to the
14 provisions of this section.

15 (h) The department shall notify, in writing, the
16 Commissioner of Corporations whenever it determines
17 that a multiple employer trust qualifies as a health care
18 service plan subject to Chapter 2.2 (commencing with
19 Section 1340) of Division 2 of the Health Safety Code.

20 (i) Any health care service plan operated by any city,
21 county, city and county, *local* public entity, or political
22 subdivision, as described in Section 1349.2 of the Health
23 and Safety Code, that is exempt pursuant to Section
24 1349.2 of the Health and Safety Code from the
25 Knox-Keene Health Care Service Plan Act of 1975
26 (commencing with Section 1340) of the Health and
27 Safety Code, is also exempt from this code, except for the
28 prohibitions against unfair and deceptive acts pursuant to
29 subdivision (h) of Section 790.03 and the civil penalties
30 pursuant to Section 790.035.

O

