

AMENDED IN SENATE AUGUST 28, 1996  
AMENDED IN SENATE AUGUST 26, 1996  
AMENDED IN SENATE AUGUST 15, 1996  
AMENDED IN ASSEMBLY MAY 29, 1996  
AMENDED IN ASSEMBLY MAY 14, 1996  
AMENDED IN ASSEMBLY APRIL 25, 1996  
AMENDED IN ASSEMBLY APRIL 23, 1996  
AMENDED IN ASSEMBLY APRIL 11, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2649**

---

---

**Introduced by Assembly Members Thompson, Figueroa,  
and Sweeney**  
(Coauthor: Senator Leslie)

February 21, 1996

---

---

An act to add Section 511 to the Business and Professions Code, to amend Section 1367.10 of, and to add Section 1348.6 to, the Health and Safety Code, and to add Section 10175.5 to the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2649, as amended, B. Thompson. Health care coverage: provider incentives: capitation.

(1) Existing law provides for the licensure and regulation of health care service plans administered by the

Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a misdemeanor.

This bill would prohibit a contract between a health care service plan and a physician and surgeon, physician and surgeon group, or other licensed health care practitioner from containing any incentive plan that includes specific payment made directly, in any type or form, to a physician and surgeon, physician and surgeon group, or other licensed health care practitioner as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services. The bill would impose similar restrictions on a subcontract between a physician and surgeon, physician and surgeon group, or other licensed health care practitioner who contracts with a health care service plan or health insurance carrier, and another physician and surgeon, physician and surgeon group, or other licensed health care practitioner.

(2) Existing law requires certain health care service plans to disclose how participation in the plan may affect the choice of physician, hospital, or other health care providers.

This bill would also require these plans to disclose the basic method of reimbursement and whether financial bonuses or incentives are used.

(3) Existing law provides for the regulation of life and disability coverage, and specifies the contract contents.

This bill would, with certain exceptions, prohibit any disability insurance contract with a physician and surgeon, a physician and surgeon group, or other licensed health care practitioner from containing any incentive plan that includes specific payment as an inducement to deny, reduce, limit, or delay services.

(4) This bill would incorporate additional changes in Section 1367.10 of the Health and Safety Code proposed by SB 1547, to be operative only if SB 1547 and this bill are both chaptered and become effective January 1, 1997, and this bill is chaptered last.

(5) By changing the definition of a crime applicable to the law regulating health care service plans, 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. Section 511 is added to the Business and  
2 Professions Code, to read:

3 511. (a) No subcontract between a physician and  
4 surgeon, physician and surgeon group, or other licensed  
5 health care practitioner who contracts with a health care  
6 service plan or health insurance carrier, and another  
7 physician and surgeon, physician and surgeon group, or  
8 licensed health care practitioner, shall contain any  
9 incentive plan that includes a specific payment made, in  
10 any type or form, to a physician and surgeon, physician  
11 and surgeon group, or other licensed health care  
12 practitioner as an inducement to deny, reduce, limit, or  
13 delay specific, medically necessary, and appropriate  
14 services covered under the contract with the health care  
15 service plan or health insurance carrier and provided  
16 with respect to a specific enrollee or groups of enrollees  
17 with similar medical conditions.

18 (b) Nothing in this section shall be construed to  
19 prohibit subcontracts that contain incentive plans that  
20 involve general payments such as capitation payments or  
21 shared risk agreements that are not tied to specific  
22 medical decisions involving specific enrollees or groups of  
23 enrollees with similar medical conditions.

24 SEC. 2. Section 1348.6 is added to the Health and  
25 Safety Code, to read:

26 1348.6. (a) No contract between a health care service  
27 plan and a physician, physician group, or other licensed  
28 health care practitioner shall contain any incentive plan  
29 that includes specific payment made directly, in any type  
30 or form, to a physician, physician group, or other licensed  
31 health care practitioner as an inducement to deny,



1 reduce, limit, or delay specific, medically necessary, and  
2 appropriate services provided with respect to a specific  
3 enrollee or groups of enrollees with similar medical  
4 conditions.

5 (b) Nothing in this section shall be construed to  
6 prohibit contracts that contain incentive plans that  
7 involve general payments, such as capitation payments,  
8 or shared-risk arrangements that are not tied to specific  
9 medical decisions involving specific enrollees or groups of  
10 enrollees with similar medical conditions. The payments  
11 rendered or to be rendered to physicians, physician  
12 groups, or other licensed health care practitioners under  
13 these arrangements shall be deemed confidential  
14 information in accordance with subdivision (d) of Section  
15 1351.

16 SEC. 3. Section 1367.10 of the Health and Safety Code  
17 is amended to read:

18 1367.10. Every health care service plan that will affect  
19 the choice of physician, hospital, or other health care  
20 providers shall include within its disclosure form and  
21 within its evidence or certificate of coverage a statement  
22 clearly describing how participation in the plan may  
23 affect the choice of physician, hospital, or other health  
24 care providers, the basic method of reimbursement, and  
25 whether financial bonuses or incentives are used. The  
26 plan shall clearly inform prospective enrollees that  
27 participation in that plan will affect the person's choice  
28 of provider in this regard by placing the following  
29 statement in a conspicuous place on all material required  
30 to be given to prospective enrollees including  
31 promotional and descriptive material, disclosure forms,  
32 and certificates and evidences of coverage:

33



1 PLEASE READ THE FOLLOWING INFORMATION  
2 SO YOU WILL KNOW FROM WHOM OR WHAT  
3 GROUP OF PROVIDERS HEALTH CARE MAY BE  
4 OBTAINED  
5

6 It is not the intent of this section to require that the  
7 names of individual health care providers be enumerated  
8 to prospective enrollees.

9 SEC. 3.5. Section 1367.10 of the Health and Safety  
10 Code is amended to read:

11 1367.10. Every health care service plan that will affect  
12 the choice of physician, hospital, or other health care  
13 providers shall include within its disclosure form and  
14 within its evidence or certificate of coverage a statement  
15 clearly describing *how participation in the plan may*  
16 *affect the choice of physician, hospital, or other health*  
17 *care providers*, the basic method of reimbursement, and  
18 whether financial bonuses or incentives are used. The  
19 plan shall clearly inform prospective enrollees that  
20 participation in that plan will affect the person's choice  
21 of provider in this regard by placing the following  
22 statement in a conspicuous place on all material required  
23 to be given to prospective enrollees including  
24 promotional and descriptive material, disclosure forms,  
25 and certificates and evidences of coverage:  
26

27 PLEASE READ THE FOLLOWING INFORMATION  
28 SO YOU WILL KNOW FROM WHOM OR WHAT  
29 GROUP OF PROVIDERS HEALTH CARE MAY BE  
30 OBTAINED  
31

32 It is not the intent of this section to require that the  
33 names of individual health care providers be enumerated  
34 to prospective enrollees.

35 If the health care service plan provides a list of  
36 providers to patients or contracting providers, the plan  
37 shall include within the provider listing a notification that  
38 enrollees may contact the plan in order to obtain a list of  
39 the facilities with which the health care service plan is

1 contracting for subacute care and/or transitional  
2 inpatient care.

3 SEC. 4. Section 10175.5 is added to the Insurance  
4 Code, to read:

5 10175.5. (a) No disability insurance contract with a  
6 physician and surgeon, physician and surgeon group, or  
7 other licensed health care practitioner shall contain any  
8 incentive plan that includes specific payment made in  
9 any type or form, to a physician and surgeon, physician  
10 and surgeon group, or other licensed health care  
11 practitioner as an inducement to deny, reduce, limit, or  
12 delay specific, medically necessary, and appropriate  
13 services provided with respect to specific insureds or  
14 groups of insureds with similar medical conditions.

15 (b) Nothing in this section shall be construed to  
16 prohibit payment arrangements that are not tied to  
17 specific medical decisions involving specific insureds or  
18 group of insureds with similar medical conditions.

19 SEC. 5. Section 3.5 of this bill incorporates  
20 amendments to Section 1367.10 of the Health and Safety  
21 Code proposed by both this bill and SB 1547. It shall only  
22 become operative if (1) both bills are enacted and  
23 become effective on or before January 1, 1997, (2) each  
24 bill amends Section 1367.10 of the Health and Safety  
25 Code, and (3) this bill is enacted after SB 1547, in which  
26 case Section 3 of this bill shall not become operative.

27 SEC. 6. No reimbursement is required by this act  
28 pursuant to Section 6 of Article XIII B of the California  
29 Constitution because the only costs that may be incurred  
30 by a local agency or school district will be incurred  
31 because this act creates a new crime or infraction,  
32 eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section  
34 17556 of the Government Code, or changes the definition  
35 of a crime within the meaning of Section 6 of Article  
36 XIII B of the California Constitution.

37 Notwithstanding Section 17580 of the Government  
38 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

O

