

## Assembly Bill No. 2649

### CHAPTER 1014

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.

[Approved by Governor September 27, 1996. Filed  
with Secretary of State September 29, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2649, 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.

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

SECTION 1. Section 511 is added to the Business and Professions Code, to read:

511. (a) No 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 licensed health care practitioner, shall contain any incentive plan that includes a specific payment made, 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 covered under the contract with the health care service plan or health insurance carrier and provided with respect to a specific enrollee or groups of enrollees with similar medical conditions.

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

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

1348.6. (a) No contract between a health care service plan and a physician, physician group, or other licensed health care practitioner shall contain any incentive plan that includes specific payment made directly, in any type or form, to a physician, physician group, or other licensed health care practitioner as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services provided with respect to a specific enrollee or groups of enrollees with similar medical conditions.

(b) Nothing in this section shall be construed to prohibit contracts that contain incentive plans that involve general payments, such as



capitation payments, or shared-risk arrangements that are not tied to specific medical decisions involving specific enrollees or groups of enrollees with similar medical conditions. The payments rendered or to be rendered to physicians, physician groups, or other licensed health care practitioners under these arrangements shall be deemed confidential information in accordance with subdivision (d) of Section 1351.

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

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

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

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

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

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



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

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

If the health care service plan provides a list of providers to patients or contracting providers, the plan shall include within the provider listing a notification that enrollees may contact the plan in order to obtain a list of the facilities with which the health care service plan is contracting for subacute care and/or transitional inpatient care.

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

10175.5. (a) No disability insurance contract with a physician and surgeon, physician and surgeon group, or other licensed health care practitioner shall contain any incentive plan that includes specific payment made 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 provided with respect to specific insureds or groups of insureds with similar medical conditions.

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

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

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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