

AMENDED IN ASSEMBLY MAY 28, 1999
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 78

Introduced by Assembly Member Gallegos

December 8, 1998

An act to amend, repeal, and add Sections 1341, 1342.5, and 1347 of, and to add Division 108 (commencing with Section 140000) to, the Health and Safety Code, relating to health care coverage, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 78, as amended, Gallegos. Health care coverage: ~~Board~~ *Department of Managed Health Care*.

(1) Under existing law, the Knox-Keene Health Care Service Plan Act of 1975, the Commissioner of Corporations is charged with responsibility for administration and enforcement of the act, which governs health care service plans.

This bill would establish ~~an unspecified entity~~ *the Department of Managed Care*, on and after March 1, 2000, to administer and enforce the regulation of health care service plans on and after July 1, 2000.

The bill would require ~~an unspecified entity~~ *the department* to administer and enforce the regulation of disability insurers that cover hospital, medical, and surgical benefits, preferred provider organizations, exclusive provider

organizations, and any other preferred provider insurers on and after July 1, 2002.

(2) Existing law establishes a Health Care Service Plan Advisory Committee in the Department of Corporations with prescribed membership and duties.

This bill would, on March 1, 2000, establish the Advisory Committee on Managed Care and prescribe its membership. The bill would require ~~an unspecified entity~~ *the department* and the committee to make various reports to the Governor and Legislature.

(3) The bill would also appropriate \$3,000,000 from the State Corporations Fund to ~~an unspecified entity~~ *the department* for expenditure to cover the startup costs of ~~an unspecified entity~~ *the department* and new personnel and operating expenses. The bill would authorize ~~an unspecified entity~~ *the department* to require health care service plans to pay an additional assessment sufficient to pay for the startup costs, new personnel, and operating expenses.

(4) 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: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 1341 of the Health and Safety
2 Code is amended to read:
3 1341. (a) Responsibility for the administration and
4 enforcement of this chapter is vested in the
5 Commissioner of Corporations. All references to
6 commissioner in this chapter shall be references to the
7 Commissioner of Corporations and all references to
8 department shall be references to the Department of
9 Corporations.
10 (b) This section shall become inoperative on July 1,
11 2000, and, as of January 1, 2001, is repealed, unless a later



1 enacted statute, that becomes operative on or before
2 January 1, 2001, deletes or extends the dates on which it
3 becomes inoperative and is repealed.

4 SEC. 2. Section 1341 is added to the Health and Safety
5 Code, to read:

6 1341. (a) Responsibility for the administration and
7 enforcement of this chapter is vested in the _____
8 *Department* of Managed Health Care established
9 pursuant to Division 108 (commencing with Section
10 140000). All references to commissioner in this chapter
11 shall be references to the _____ *Department* of
12 Managed Health Care and all references to department
13 ~~or _____~~ shall be references to the _____
14 *Department* of Managed Health Care.

15 (b) This section shall become operative July 1, 2000.

16 SEC. 3. Section 1342.5 of the Health and Safety Code
17 is amended to read:

18 1342.5. (a) The commissioner shall consult with the
19 Insurance Commissioner prior to adopting any
20 regulations applicable to health care service plans subject
21 to this chapter and nonprofit hospital service plans
22 subject to Chapter 11A (commencing with Section
23 11491) of Part 2 of Division 2 of the Insurance Code and
24 other entities governed by the Insurance Code for the
25 specific purpose of ensuring, to the extent practical, that
26 there is consistency of regulations applicable to these
27 plans and entities by the Insurance Commissioner and the
28 Commissioner of Corporations.

29 (b) This section shall become inoperative on July 1,
30 2000, and, as of January 1, 2001, is repealed, unless a later
31 enacted statute, that becomes operative on or before
32 January 1, 2001, deletes or extends the dates on which it
33 becomes inoperative and is repealed.

34 SEC. 4. Section 1342.5 is added to the Health and
35 Safety Code, to read:

36 1342.5. (a) The _____ *Department* of Managed
37 Health Care shall consult with the Insurance
38 Commissioner and the Director of Health Services prior
39 to adopting any regulations applicable to health care
40 service plans subject to this chapter for the specific



1 purpose of ensuring, to the extent practical, that there are
2 efficient and cost-effective health services and
3 consistency of regulations applicable to those plans and to
4 the disability insurers and other health plans subject to
5 the jurisdiction of the Insurance Commissioner and the
6 Director of Health Services.

7 (b) This section shall become operative on July 1, 2000.
8 This section shall become inoperative on July 1, 2002, and,
9 as of January 1, 2003, is repealed, unless a later enacted
10 statute, that becomes operative on or before January 1,
11 2003, deletes or extends the dates on which it becomes
12 inoperative and is repealed.

13 SEC. 5. Section 1347 of the Health and Safety Code is
14 amended to read:

15 1347. (a) There is established in the Department of
16 Corporations a Health Care Service Plan Advisory
17 Committee consisting of 20 members. The members shall
18 consist of the commissioner or the commissioner's
19 designee; a physician and surgeon with five years'
20 experience in providing services to enrollees of a health
21 care service plan; a person with expertise and five years'
22 experience in an administrative capacity of a
23 hospital-based plan; a person with five years' experience
24 with a corporation formed under Section 9201 of the
25 Corporations Code; a person with five years' experience
26 with a non-hospital-based independent practice
27 association; a person with expertise and five years'
28 experience in a health care service plan that is a
29 hospital-based independent practice association; a person
30 with five years' experience in an administrative capacity
31 with a non-hospital-based health care service plan; a
32 person with five years' experience in an administrative
33 capacity with a specialized health care service plan; a
34 certified public accountant with five years' experience in
35 auditing plans; and six public members having no
36 financial interest in the delivery of health care services or
37 in plans except for being enrolled in a health care service
38 plan or specialized health care service plan.

39 The members shall also include two persons with five
40 years' experience in an administrative capacity with a



1 dental service plan, two persons with five years'
2 experience in an administrative capacity with a vision
3 service plan, and one person with five years' experience
4 in an administrative capacity with a mental health service
5 plan, all of whom shall be appointed by the commissioner
6 for a term of three years commencing January 1, 1989.
7 With respect only to one of the members appointed who
8 is required to have five years' experience in an
9 administrative capacity with a vision service plan, until
10 January 1, 1996, the commissioner may at his or her
11 discretion substitute for the five years' experience
12 requirement compensating factors such as professional
13 education, experience in related fields, and other factors
14 as the commissioner deems relevant.

15 The members shall be appointed by the commissioner
16 for a term of three years, except that of the members first
17 appointed, four shall serve for a term of one year and five
18 shall serve for a term of two years, as designated by the
19 commissioner.

20 The committee shall meet at least quarterly and at the
21 call of the chairperson. The commissioner or the
22 commissioner's designee shall be chairperson of the
23 committee. The committee may establish its own rules
24 and procedures. All members shall serve without
25 compensation, but the six public members shall be
26 reimbursed from department funds for expenses actually
27 and necessarily incurred by them in the performance of
28 their duties.

29 (b) The purpose of the committee is to assist and
30 advise the commissioner in the implementation of the
31 commissioner's duties under this chapter. The
32 commissioner shall consult with the advisory committee
33 on regulations and the recommendations of the
34 committee shall be made a part of the record with regard
35 to those regulations. The committee shall be given at least
36 45 days to review and comment on regulations prior to
37 setting a notice of hearing for proposed regulations.
38 Nothing in this subdivision prohibits the commissioner
39 from promulgating emergency regulations pursuant to
40 the Administrative Procedure Act. The commissioner



1 shall discuss budget changes relating to the
2 administration of this chapter with the committee, and
3 the committee may make recommendations to the
4 commissioner regarding the proposed budget changes.

5 (c) This section shall become inoperative on March 1,
6 2000, and, as of January 1, 2001, is repealed, unless a later
7 enacted statute, that becomes operative on or before
8 January 1, 2001, deletes or extends the dates on which is
9 becomes inoperative and is repealed.

10 SEC. 6. Section 1347 is added to the Health and Safety
11 Code, to read:

12 1347. (a) (1) There is established an Advisory
13 Committee on Managed Care consisting of 29 voting
14 members.

15 (2) The members shall consist of the following:

16 (A) Six consumer group representatives who advocate
17 on behalf of health plan enrollees and health insurance
18 policyholders, who shall include at least two members
19 representing the interests of vulnerable populations.

20 (B) Four health care service plan enrollees and two
21 health insurance policyholders.

22 (C) Four health care professionals, including at least
23 one physician and one nurse.

24 (D) Two representatives of medical groups.

25 (E) Four representatives of full-service health care
26 service plans.

27 (F) Three representatives of specialized health care
28 service plans.

29 (G) Two representatives of disability insurers that
30 cover hospital, medical, or surgical expenses, including at
31 least one that provides coverage through a preferred
32 provider organization.

33 (H) Two representatives of employers that purchase
34 health care coverage for their employees, which shall
35 include one public or government employer.

36 (3) The members shall be appointed by the ~~board~~
37 *department* for a term of three years, however, of the
38 members first appointed, nine shall serve for a term of
39 one year and 10 shall serve for a term of two years, as
40 designated by the *department*.



1 (4) The Department of Insurance, Department of
2 Consumer Affairs, State Department of Health Services,
3 Office of Statewide Health Planning and Development,
4 and Department of Industrial Relations shall appoint
5 representatives to serve as nonvoting ex officio members
6 of the advisory committee. The ex officio members shall
7 seek to promote interagency coordination on health care
8 issues and enhanced capabilities, including electronic
9 capabilities, to share information with the _____
10 *department*.

11 (5) Every two years, the advisory committee shall
12 elect a chairperson and a vice chairperson from among its
13 voting members.

14 (6) The advisory committee shall meet at least
15 quarterly and at the call of the chairperson. The advisory
16 committee may establish its own rules and procedures.
17 All members shall serve without compensation, but the
18 six consumer group representatives, four health care
19 service plan enrollees, and two health insurance
20 policyholders may request and receive funds from the
21 _____ *department* for travel expenses actually and
22 necessarily incurred by them in the performance of their
23 advisory committee duties.

24 (b) The purpose of the advisory committee is to
25 consider various points of view and to assist and advise the
26 _____ *department* in the implementation of the duties
27 of the _____ *department* under this chapter. The
28 advisory committee shall focus on major policy and
29 planning issues, including issues associated with helping
30 patients secure health care services to which they are
31 entitled under the laws administered by the _____.
32 ~~The _____ *department*.~~ *The department* shall consult
33 with the advisory committee on regulations and the
34 recommendations of the committee shall be made a part
35 of the record with regard to those regulations. The
36 advisory committee shall be given at least 45 days to
37 review and comment on regulations prior to setting a
38 notice of hearing for proposed regulations. Nothing in this
39 subdivision prohibits the _____ *department* from
40 adopting urgency regulations pursuant to the



1 Administrative Procedure Act (Chapter 3 (commencing
2 with Section 11340) of Part 1 of Division 3 of Title 2 of the
3 Government Code). The _____ *department* shall
4 discuss budget changes relating to the administration of
5 this chapter with the advisory committee, and the
6 committee may make recommendations to the board
7 regarding the proposed budget changes.

8 (c) This section shall become operative on March 1,
9 2000.

10 SEC. 7. Division 108 (commencing with Section
11 140000) is added to the Health and Safety Code, to read:

12
13 DIVISION 108. _____ *DEPARTMENT OF*
14 MANAGED HEALTH CARE

15
16 CHAPTER 1. ESTABLISHMENT

17
18 140000. This division shall be known and may be cited
19 as the Rosenthal-Gallegos _____ *Department* of
20 Managed Health Care Act.

21 140001. There is in the _____ ~~Agency a~~ _____
22 *California Health and Human Services Agency a*
23 *Department of Managed Health Care. The Governor*
24 *shall appoint a director of the department, who shall be*
25 *subject to confirmation by the Senate.*

26 140004. This chapter shall become operative on
27 March 1, 2000.

28
29 CHAPTER 4. ADMINISTRATION

30
31 140040. The central office of the _____ *department*
32 shall be in the City of Sacramento. The _____
33 *department* may also establish other suboffices as it may
34 deem necessary.

35



CHAPTER 5. OFFICES

Article 1. Office of the General Counsel

140050. There is within the _____ department an Office of the General Counsel. The _____ director shall appoint a General Counsel to manage the office.

Article 2. Office of Policy, Planning, and Interagency Coordination

140060. There is within the _____ department an Office of Policy, Planning, and Interagency Coordination. The _____ director shall appoint a Policy and Planning Officer to manage the office.

140061. The office shall provide staff support for the Advisory Committee on Managed Care established pursuant to Section 1347.

Article 3. Public Information and Education Office

140070. There is within the _____ department a Public Information and Education Office. The _____ director shall appoint a Public Information Officer to manage the office.

Article 10. Operative Date

140089. This chapter shall become operative March 1, 2000.

CHAPTER 6. DIVISIONS

Article 1. Patient Advocate Division

140090. There is within the _____ department a patient advocate division to represent the interests of patients served by health care entities regulated by the ~~board~~ department. The goal of the division shall be to help patients secure medically necessary and appropriate



1 health care services to which they are entitled under the
2 laws administered by the _____ department.

3 140091. The director of the division shall be an
4 individual recommended to the Governor by the
5 _____ director and shall be appointed by and serve at
6 the pleasure of the Governor, subject to confirmation by
7 the Senate.

8 140092. The _____ department shall, by rule or
9 order, provide for the assignment of personnel to the
10 division. The division may employ experts necessary to
11 carry out its functions. Personnel and resources shall be
12 provided to the division at a level sufficient to ensure that
13 patient interests are fully and fairly represented. The
14 annual budget for the division shall be separately
15 identified in the annual budget request of the _____
16 department.

17 140093. The division may compel the production or
18 disclosure of any information it deems necessary to
19 perform its duties from entities regulated by the _____
20 department, if the information is determined by the
21 General Counsel to be subject, under existing law, to
22 production or disclosure to the _____ department.

23 140094. The director shall annually appear before the
24 appropriate policy and fiscal committees of the Senate
25 and Assembly to report on the activities of the division.
26

27 Article 2. Licensing and Quality Assurance Division

28
29 140100. There is within the _____ department a
30 licensing and quality assurance division.
31

32 Article 3. Financial Division

33
34 140110. There is within the _____ department a
35 financial division.
36

37 Article 4. Enforcement Division

38
39 140120. There is within the _____ department an
40 enforcement division.



1 140121. The enforcement division shall include a
2 liaison officer to the patient advocate division.

3
4 Article 5. Administrative Division

5
6 140130. There is within the _____ *department* an
7 administrative division.

8
9 Article 10. Operative Date

10
11 140149. This chapter shall become operative March 1,
12 2000.

13
14 CHAPTER 7. REGULATION OF HEALTH CARE SERVICE
15 PLANS

16
17 Article 1. General

18
19 140150. Effective July 1, 2000, responsibility for the
20 administration and enforcement of the regulation of
21 health care service plans under the Knox-Keene Health
22 Care Service Plan Act of 1975 (Chapter 2.2 (commencing
23 with Section 1340) of Division 2) is transferred from the
24 Department of Corporations to the _____ *department*.

25 140153. Any rights given by any license issued under
26 the Knox-Keene Health Care Service Plan Act of 1975
27 (Chapter 2.2 (commencing with Section 1340) of
28 Division 2) are not affected by the enactment of this
29 division, but those rights shall be exercised according to
30 this division, and under the jurisdiction of the _____
31 *department*.

32 140158. It is the intent of the Legislature that all
33 personnel and funds dedicated to health care service plan
34 regulation by the Department of Corporations be
35 transferred to the _____ *department* on or before July
36 1, 2000.

37



CHAPTER 8. REGULATION OF HEALTH INSURANCE PRODUCTS

Article 1. General

140250. Effective July 1, 2002, responsibility under the Insurance Code for the administration and enforcement of the regulation of disability insurers that cover hospital, medical, or surgical expenses shall be transferred from the Department of Insurance to the _____ department. For the purpose of regulating disability insurers that cover hospital, medical, or surgical expenses, all references to commissioner and department in the Insurance Code shall be references to the _____ Department of Managed Health Care.

140253. Any rights given by any license issued under the Insurance Code are not affected by the enactment of this division, but those rights shall be exercised according to this division, and under the jurisdiction of the _____ department.

140255. On or before March 1, 2001, the _____ department, in consultation with the Insurance Commissioner and the Advisory Committee on Managed Care established pursuant to Section 1347, shall provide the Governor and Legislature with a report regarding legislation, if any, that may be necessary and appropriate to facilitate, modify, or rescind the transfer to the _____ department of jurisdiction over disability insurers that cover hospital, medical, or surgical expenses, including, but not limited to, disability insurers that provide that coverage through a preferred provider organization, exclusive provider organization, or any other managed health care system.

140257. (a) It is the intent of the Legislature that this article be implemented in a manner that insures the greatest assistance to disability insurance policyholders and the least disruption to the business of insurance.

(b) The _____ director shall designate an individual who shall serve as a liaison to the Insurance Commissioner



1 for the purpose of assisting in the transfer of responsibility
2 required pursuant to Section 140250.

3 (c) As of January 1, 2000, and until July 1, 2002, the
4 toll-free telephone number required by Section 1368.02
5 shall be staffed by personnel equipped to respond to
6 inquiries regarding disability insurance that covers
7 hospital, medical, or surgical services as well as to
8 inquiries regarding health care service plans, and to make
9 referrals to the Department of Insurance if the staff of the
10 toll-free telephone number is unable to adequately assist
11 the consumer, until the _____ department assumes
12 jurisdiction over disability insurers pursuant to Section
13 140250. The _____ department shall coordinate with
14 the Insurance Commissioner, health care service plans,
15 and disability insurers to provide notice to enrollees,
16 policyholders, and members of the public of the
17 availability of a toll-free telephone number that responds
18 to inquiries involving both health care service plans and
19 disability insurers.

20 (d) On and after July 1, 2002, the _____
21 department's toll-free telephone number shall provide
22 the same services to policyholders of disability insurance,
23 including the receipt and consideration of complaints, as
24 provided to health care service plan enrollees.

25 140258. It is the intent of the Legislature that all
26 personnel and funds dedicated to the regulation by the
27 Department of Insurance of disability insurers that cover
28 hospital, medical, or surgical expenses be transferred to
29 the _____ department on or before July 1, 2002, unless
30 a later enacted statute, that becomes operative on or
31 before July 1, 2002, deletes or extends the date on which
32 jurisdiction shall be transferred from the Department of
33 Insurance to the _____ department.

34

35 CHAPTER 9. REGULATION OF PROVIDER GROUPS ~~AND~~
36 ~~OTHER MANAGED CARE SERVICES~~

37

38 140300. On or before May 1, 2000, the _____
39 Department of Managed Care shall provide the
40 Governor and Legislature with a report regarding



1 legislation, if any, that may be necessary and appropriate
 2 to expand the _____ department's existing jurisdiction
 3 over medical groups, independent practice associations,
 4 and other provider groups that provide or arrange for
 5 medical care and bear significant financial risk associated
 6 with the provision of the care.

7 SEC. 8. (a) The sum of three million dollars
 8 (\$3,000,000) is appropriated from the State Corporations
 9 Fund to the _____ Department of Managed Health
 10 Care for expenditure to cover the startup costs of the
 11 _____ department and new personnel and operating
 12 expenses necessary to implement Division 108
 13 (commencing with Section 140000) of the Health and
 14 Safety Code. The _____ Department of Managed
 15 Health Care may require health care service plans to pay
 16 an additional assessment sufficient to pay for these startup
 17 costs, new personnel, and expenses.

18 (b) This section shall become operative on March 1,
 19 2000.

20 SEC. 9. No reimbursement is required by this act
 21 pursuant to Section 6 of Article XIII B of the California
 22 Constitution because the only costs that may be incurred
 23 by a local agency or school district will be incurred
 24 because this act creates a new crime or infraction,
 25 eliminates a crime or infraction, or changes the penalty
 26 for a crime or infraction, within the meaning of Section
 27 17556 of the Government Code, or changes the definition
 28 of a crime within the meaning of Section 6 of Article
 29 XIII B of the California Constitution.

