

AMENDED IN ASSEMBLY JUNE 2, 1999
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: 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 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 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 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 the department for expenditure to cover the startup costs of the department and new personnel and operating expenses. The bill would authorize 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
12 enacted statute, that becomes operative on or before



1 January 1, 2001, deletes or extends the dates on which it
2 becomes inoperative and is repealed.

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

5 1341. (a) Responsibility for the administration and
6 enforcement of this chapter is vested in the Department
7 of Managed Health Care established pursuant to Division
8 108 (commencing with Section 140000). All references to
9 commissioner in this chapter shall be references to the
10 Department of Managed Health Care and all references
11 to department shall be references to the Department of
12 Managed Health Care.

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

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

16 1342.5. (a) The commissioner shall consult with the
17 Insurance Commissioner prior to adopting any
18 regulations applicable to health care service plans subject
19 to this chapter and nonprofit hospital service plans
20 subject to Chapter 11A (commencing with Section
21 11491) of Part 2 of Division 2 of the Insurance Code and
22 other entities governed by the Insurance Code for the
23 specific purpose of ensuring, to the extent practical, that
24 there is consistency of regulations applicable to these
25 plans and entities by the Insurance Commissioner and the
26 Commissioner of Corporations.

27 (b) This section shall become inoperative on July 1,
28 2000, and, as of January 1, 2001, is repealed, unless a later
29 enacted statute, that becomes operative on or before
30 January 1, 2001, deletes or extends the dates on which it
31 becomes inoperative and is repealed.

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

34 1342.5. (a) The Department of Managed Health
35 Care shall consult with the Insurance Commissioner and
36 the Director of Health Services prior to adopting any
37 regulations applicable to health care service plans subject
38 to this chapter for the specific purpose of ensuring, to the
39 extent practical, that there are efficient and cost-effective
40 health services and consistency of regulations applicable



1 to those plans and to the disability insurers and other
2 health plans subject to the jurisdiction of the Insurance
3 Commissioner and the Director of Health Services.

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

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

12 1347. (a) There is established in the Department of
13 Corporations a Health Care Service Plan Advisory
14 Committee consisting of 20 members. The members shall
15 consist of the commissioner or the commissioner's
16 designee; a physician and surgeon with five years'
17 experience in providing services to enrollees of a health
18 care service plan; a person with expertise and five years'
19 experience in an administrative capacity of a
20 hospital-based plan; a person with five years' experience
21 with a corporation formed under Section 9201 of the
22 Corporations Code; a person with five years' experience
23 with a non-hospital-based independent practice
24 association; a person with expertise and five years'
25 experience in a health care service plan that is a
26 hospital-based independent practice association; a person
27 with five years' experience in an administrative capacity
28 with a non-hospital-based health care service plan; a
29 person with five years' experience in an administrative
30 capacity with a specialized health care service plan; a
31 certified public accountant with five years' experience in
32 auditing plans; and six public members having no
33 financial interest in the delivery of health care services or
34 in plans except for being enrolled in a health care service
35 plan or specialized health care service plan.

36 The members shall also include two persons with five
37 years' experience in an administrative capacity with a
38 dental service plan, two persons with five years'
39 experience in an administrative capacity with a vision
40 service plan, and one person with five years' experience



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

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

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

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



1 the committee may make recommendations to the
2 commissioner regarding the proposed budget changes.

3 (c) This section shall become inoperative on March 1,
4 2000, and, as of January 1, 2001, is repealed, unless a later
5 enacted statute, that becomes operative on or before
6 January 1, 2001, deletes or extends the dates on which is
7 becomes inoperative and is repealed.

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

10 1347. (a) (1) There is established an Advisory
11 Committee on Managed Care consisting of 29 voting
12 members.

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

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

18 (B) Four health care service plan enrollees and two
19 health insurance policyholders.

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

22 (D) Two representatives of medical groups.

23 (E) Four representatives of full-service health care
24 service plans.

25 (F) Three representatives of specialized health care
26 service plans.

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

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

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

39 (4) The Department of Insurance, Department of
40 Consumer Affairs, State Department of Health Services,



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

8 (5) Every two years, the advisory committee shall
9 elect a chairperson and a vice chairperson from among its
10 voting members.

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

21 (b) The purpose of the advisory committee is to
22 consider various points of view and to assist and advise the
23 department in the implementation of the duties of the
24 department under this chapter. The advisory committee
25 shall focus on major policy and planning issues, including
26 issues associated with helping patients secure health care
27 services to which they are entitled under the laws
28 administered by the department. The department shall
29 consult with the advisory committee on regulations and
30 the recommendations of the committee shall be made a
31 part of the record with regard to those regulations. The
32 advisory committee shall be given at least 45 days to
33 review and comment on regulations prior to setting a
34 notice of hearing for proposed regulations. Nothing in this
35 subdivision prohibits the department from adopting
36 urgency regulations pursuant to the Administrative
37 Procedure Act (Chapter 3 (commencing with Section
38 11340) of Part 1 of Division 3 of Title 2 of the Government
39 Code). The department shall discuss budget changes
40 relating to the administration of this chapter with the



1 advisory committee, and the committee may make
2 recommendations to the board regarding the proposed
3 budget changes.

4 (c) This section shall become operative on March 1,
5 2000.

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

8
9 DIVISION 108. DEPARTMENT OF MANAGED
10 HEALTH CARE

11
12 CHAPTER 1. ESTABLISHMENT

13
14 140000. This division shall be known and may be cited
15 as the Rosenthal-Gallegos Department of Managed
16 Health Care Act.

17 140001. There is in the California ~~Health and Human~~
18 *Managed Health Care* Services Agency a Department of
19 Managed Health Care. The Governor shall appoint a
20 director of the department, who shall be subject to
21 confirmation by the Senate.

22 140004. This chapter shall become operative on
23 March 1, 2000.

24
25 CHAPTER 4. ADMINISTRATION

26
27 140040. The central office of the department shall be
28 in the City of Sacramento. The department may also
29 establish other suboffices as it may deem necessary.

30
31 CHAPTER 5. OFFICES

32
33 Article 1. Office of the General Counsel

34
35 140050. There is within the department an Office of
36 the General Counsel. The director shall appoint a
37 General Counsel to manage the office.

38



1 Article 2. Office of Policy, Planning, and Interagency
2 Coordination
3

4 140060. There is within the department an Office of
5 Policy, Planning, and Interagency Coordination. The
6 director shall appoint a Policy and Planning Officer to
7 manage the office.

8 140061. The office shall provide staff support for the
9 Advisory Committee on Managed Care established
10 pursuant to Section 1347.

11
12 Article 3. Public Information and Education Office
13

14 140070. There is within the department a Public
15 Information and Education Office. The director shall
16 appoint a Public Information Officer to manage the
17 office.

18
19 Article 10. Operative Date
20

21 140089. This chapter shall become operative March 1,
22 2000.

23
24 CHAPTER 6. DIVISIONS
25

26 Article 1. Patient Advocate Division
27

28 140090. There is within the department a patient
29 advocate division to represent the interests of patients
30 served by health care entities regulated by the
31 department. The goal of the division shall be to help
32 patients secure medically necessary and appropriate
33 health care services to which they are entitled under the
34 laws administered by the department.

35 140091. The director of the division shall be an
36 individual recommended to the Governor by the director
37 and shall be appointed by and serve at the pleasure of the
38 Governor, subject to confirmation by the Senate.

39 140092. The department shall, by rule or order,
40 provide for the assignment of personnel to the division.



1 The division may employ experts necessary to carry out
2 its functions. Personnel and resources shall be provided
3 to the division at a level sufficient to ensure that patient
4 interests are fully and fairly represented. The annual
5 budget for the division shall be separately identified in
6 the annual budget request of the department.

7 140093. The division may compel the production or
8 disclosure of any information it deems necessary to
9 perform its duties from entities regulated by the
10 department, if the information is determined by the
11 General Counsel to be subject, under existing law, to
12 production or disclosure to the department.

13 140094. The director shall annually appear before the
14 appropriate policy and fiscal committees of the Senate
15 and Assembly to report on the activities of the division.

16

17 Article 2. Licensing and Quality Assurance Division

18

19 140100. There is within the department a licensing
20 and quality assurance division.

21

22 Article 3. Financial Division

23

24 140110. There is within the department a financial
25 division.

26

27 Article 4. Enforcement Division

28

29 140120. There is within the department an
30 enforcement division.

31 140121. The enforcement division shall include a
32 liaison officer to the patient advocate division.

33

34 Article 5. Administrative Division

35

36 140130. There is within the department an
37 administrative division.

38



Article 10. Operative Date

140149. This chapter shall become operative March 1, 2000.

CHAPTER 7. REGULATION OF HEALTH CARE SERVICE PLANS

Article 1. General

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

140153. Any rights given by any license issued under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) 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.

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

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



1 commissioner and department in the Insurance Code
2 shall be references to the Department of Managed Health
3 Care.

4 140253. Any rights given by any license issued under
5 the Insurance Code are not affected by the enactment of
6 this division, but those rights shall be exercised according
7 to this division, and under the jurisdiction of the
8 department.

9 140255. On or before March 1, 2001, the department,
10 in consultation with the Insurance Commissioner and the
11 Advisory Committee on Managed Care established
12 pursuant to Section 1347, shall provide the Governor and
13 Legislature with a report regarding legislation, if any, that
14 may be necessary and appropriate to facilitate, modify, or
15 rescind the transfer to the department of jurisdiction over
16 disability insurers that cover hospital, medical, or surgical
17 expenses, including, but not limited to, disability insurers
18 that provide that coverage through a preferred provider
19 organization, exclusive provider organization, or any
20 other managed health care system.

21 140257. (a) It is the intent of the Legislature that this
22 article be implemented in a manner that insures the
23 greatest assistance to disability insurance policyholders
24 and the least disruption to the business of insurance.

25 (b) The director shall designate an individual who
26 shall serve as a liaison to the Insurance Commissioner for
27 the purpose of assisting in the transfer of responsibility
28 required pursuant to Section 140250.

29 (c) As of January 1, 2000, and until July 1, 2002, the
30 toll-free telephone number required by Section 1368.02
31 shall be staffed by personnel equipped to respond to
32 inquiries regarding disability insurance that covers
33 hospital, medical, or surgical services as well as to
34 inquiries regarding health care service plans, and to make
35 referrals to the Department of Insurance if the staff of the
36 toll-free telephone number is unable to adequately assist
37 the consumer, until the department assumes jurisdiction
38 over disability insurers pursuant to Section 140250. The
39 department shall coordinate with the Insurance
40 Commissioner, health care service plans, and disability



1 insurers to provide notice to enrollees, policyholders, and
2 members of the public of the availability of a toll-free
3 telephone number that responds to inquiries involving
4 both health care service plans and disability insurers.

5 (d) On and after July 1, 2002, the department's
6 toll-free telephone number shall provide the same
7 services to policyholders of disability insurance, including
8 the receipt and consideration of complaints, as provided
9 to health care service plan enrollees.

10 140258. It is the intent of the Legislature that all
11 personnel and funds dedicated to the regulation by the
12 Department of Insurance of disability insurers that cover
13 hospital, medical, or surgical expenses be transferred to
14 the department on or before July 1, 2002, unless a later
15 enacted statute, that becomes operative on or before July
16 1, 2002, deletes or extends the date on which jurisdiction
17 shall be transferred from the Department of Insurance to
18 the department.

19

20 CHAPTER 9. REGULATION OF PROVIDER GROUPS

21

22 140300. On or before May 1, 2000, the Department of
23 Managed Care shall provide the Governor and
24 Legislature with a report regarding legislation, if any, that
25 may be necessary and appropriate to expand the
26 department's existing jurisdiction over medical groups,
27 independent practice associations, and other provider
28 groups that provide or arrange for medical care and bear
29 significant financial risk associated with the provision of
30 the care.

31 SEC. 8. (a) The sum of three million dollars
32 (\$3,000,000) is appropriated from the State Corporations
33 Fund to the Department of Managed Health Care for
34 expenditure to cover the startup costs of the department
35 and new personnel and operating expenses necessary to
36 implement Division 108 (commencing with Section
37 140000) of the Health and Safety Code. The Department
38 of Managed Health Care may require health care service
39 plans to pay an additional assessment sufficient to pay for
40 these startup costs, new personnel, and expenses.



1 (b) This section shall become operative on March 1,
2 2000.

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

