

AMENDED IN SENATE AUGUST 24, 1999

AMENDED IN SENATE JUNE 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 440

**Introduced by Assembly Member Corbett
(Coauthors: Assembly Members Aanestad, Alquist,
Cardenas, Kuehl, Longville, Washington, and Wildman)
(Coauthor: Senator Solis)**

February 16, 1999

An act to add Section 511.5 to the Business and Professions Code, and to add Section 1395.7 to the Health and Safety Code, relating to health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 440, as amended, Corbett. Health care providers: withheld funds.

Existing law provides that a contract between a health care provider and a medical group or independent practice association, or between a health care provider and a health care service plan generally may not contain provisions that prohibit, restrict, or limit the health care provider from advertising.

This bill would provide that a contract between a health care provider and these other parties may not contain a withhold provision, as defined, unless the contract also contains certain disclosure provisions. If the contract contains the appropriate disclosures, this bill would also require certain

future disclosures, in conjunction with the payment of the withhold to the provider, with respect to the exercise of the withhold provision, as specified.

Existing law provides that a willful violation of certain provisions governing health care service plans is a crime.

Because a violation of this bill’s provisions with respect to health care service plans would be a crime, this bill would impose a state-mandated local program by creating a new crime.

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 511.5 is added to the Business
2 and Professions Code, to read:

3 511.5. (a) A “withhold” means any funds withheld
4 from reimbursement that may be due to any health care
5 provider under an agreement with any medical group or
6 independent practice association (IPA), and that may be
7 ultimately retained by the medical group or IPA or
8 returned to the provider in whole or in part, based on
9 conditions set forth under the agreement.

10 (b) No contract that is issued, amended, renewed, or
11 delivered on or after January 1, 2000, between any
12 medical group or IPA and a provider shall contain a
13 provision providing for a withhold unless it also includes
14 all of the following disclosures:

15 (1) The amount, stated in a percentage or in dollars,
16 that will be withheld from the provider’s reimbursement.

17 (2) The time period for which the withhold is kept and
18 accounted.

19 (3) The reason for the withhold.



1 (4) The criteria or basis for calculating any amount to
2 be returned to the provider and any amount to be
3 retained by the medical group or IPA.

4 (c) If the criteria or basis for calculating the withhold
5 return, as specified in paragraph (4) of subdivision (b),
6 includes the total dollar amount or percentage of the
7 claims incurred for the applicable time period, then
8 within 60 days of the adjudication of all applicable claims
9 for the time period specified in paragraph (2) of
10 subdivision (b), the medical group or IPA shall remit
11 payment to the provider for the amount of the withhold
12 due the provider under the terms of the provider
13 agreement if any withhold is due to the provider. If the
14 criteria or basis for calculating the withhold return, as
15 specified in paragraph (4) of subdivision (b), does not
16 include the total dollar amount or percentage of the
17 claims incurred for the applicable time period or does not
18 require that the claims for the applicable time period be
19 adjudicated, then the medical group or IPA shall remit
20 payment, if any, to the provider within 60 days of the close
21 of the time period specified in paragraph (2) of
22 subdivision (b). The medical group or IPA shall also
23 provide to all providers subject to a withhold, whether
24 payment is due or not, a written notice containing all of
25 the following:

26 (1) The total amount withheld from the provider
27 during the applicable time period.

28 (2) The percentage or amount of the withhold, if any,
29 being returned to the provider.

30 (3) An explanation as to how the medical group or IPA
31 calculated the amount, if any, returned to the provider.

32 (d) *Any withhold permitted by this section shall be*
33 *subject to the provisions of Section 511.*

34 SEC. 2. Section 1395.7 is added to the Health and
35 Safety Code, to read:

36 1395.7. (a) A “withhold” means any funds withheld
37 from reimbursement that may be due to any health care
38 provider under an agreement with a health care service
39 plan, including a specialized health care service plan, and
40 that may be ultimately retained by the plan or returned



1 to the provider in whole or in part, based on conditions
2 set forth under the agreement.

3 (b) No contract that is issued, amended, renewed, or
4 delivered on or after January 1, 2000, between a health
5 care service plan, including a specialized health care
6 service plan, and a provider shall contain a provision
7 providing for a withhold unless it also includes all of the
8 following disclosures:

9 (1) The amount, stated in a percentage or in dollars,
10 that will be withheld from the provider's reimbursement.

11 (2) The time period for which the withhold is kept and
12 accounted.

13 (3) The reason for the withhold.

14 (4) The criteria or basis for calculating any amount to
15 be returned to the provider and any amount retained by
16 the plan.

17 (c) If the criteria or basis for calculating the withhold
18 return, as specified in paragraph (4) of subdivision (b),
19 includes the total dollar amount or percentage of the
20 claims incurred for the applicable time period, then
21 within 60 days of the adjudication of all applicable claims
22 for the time period specified in paragraph (2) of
23 subdivision (b), the plan shall remit payment to the
24 provider for the amount of the withhold due the provider
25 under the terms of the provider agreement if any
26 withhold is due to the provider. If the criteria or basis for
27 calculating the withhold return, as specified in paragraph
28 (4) of subdivision (b), does not include the total dollar
29 amount or percentage of the claims incurred for the
30 applicable time period or does not require that the claims
31 for the applicable time period be adjudicated, then the
32 plan shall remit payment, if any, to the provider within
33 60 days of the close of the time period specified in
34 paragraph (2) of subdivision (b). The plan shall also
35 provide to all providers subject to a withhold, whether
36 payment is due or not, a written notice containing all of
37 the following:

38 (1) The total amount withheld from the provider
39 during the applicable time period.



1 (2) The percentage or amount of the withhold, if any,
2 being returned to the provider.

3 (3) An explanation as to how the plan calculated the
4 amount, if any, returned to the provider.

5 *(d) Any withhold permitted by this section shall be*
6 *subject to the provisions of Sections 1348.6 and 1367.10.*

7 SEC. 3. No reimbursement is required by this act
8 pursuant to Section 6 of Article XIII B of the California
9 Constitution because the only costs that may be incurred
10 by a local agency or school district will be incurred
11 because this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition
15 of a crime within the meaning of Section 6 of Article
16 XIII B of the California Constitution.

