

Introduced by Senator Figueroa

February 24, 2000

An act to add Section 1395.2 to the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1837, as introduced, Figueroa. Health care service plan: contractual obligations and prohibitions.

Existing law provides for the performance and delivery of goods and services by health care service plans, including drug benefits. Existing law provides for the regulation and licensing of health care service plans by the Department of Managed Care, effective no later than July 1, 2000, or earlier pursuant to an executive order of the Governor. A willful violation of the provisions governing health care service plans is a crime.

This bill would prohibit a health care service plan from entering into an "exclusive product" contract, as defined, as part of any prescription drug benefit.

Because a violation of this bill's requirements with respect to a health care service plan 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 1395.2 is added to the Health and
2 Safety Code, to read:
3 1395.2. (a) No health care service plan or any of its
4 contractors may enter into a contract with a
5 pharmaceutical manufacturer or any of the
6 manufacturer’s agents to make, as part of any
7 prescription drug benefit, a pharmaceutical product the
8 exclusive product available in a therapeutic category if
9 there is more than one pharmaceutical product available
10 in that category for the treatment of a particular disease
11 or condition.
12 (b) For purposes of this section, “exclusive product”
13 means either of the following:
14 (1) The contract requires the health care service plan
15 or any of its contractors to make a particular
16 pharmaceutical product the only product available by the
17 health care service plan for the treatment of a particular
18 disease or condition.
19 (2) The contract for a particular pharmaceutical
20 product is implemented in a manner that alternative
21 pharmaceutical products in the same therapeutic
22 category are made available to an enrollee at a cost that
23 is significantly greater than the pharmaceutical product
24 provided under the contract, and that cost unreasonably
25 impedes the enrollee’s access to the alternative
26 pharmaceutical products.
27 SEC. 2. 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



1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.

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