

Assembly Bill No. 1296

Passed the Assembly September 5, 2007

Chief Clerk of the Assembly

Passed the Senate September 5, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 22854.5 to the Government Code, relating to public employee health benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 1296, Torrico. Public employee health benefits: disclosures.

The Public Employees' Medical and Hospital Care Act requires the Board of Administration of the Public Employees' Retirement System to approve health benefit plans for certain public employees and annuitants, and authorizes the board to contract with carriers offering health benefit plans. The act sets forth certain criteria the board may take into account when considering a contract with an entity seeking to provide health care benefits or services, and allows the board to require specified documents from that entity.

This bill would require a health benefit plan or contractor, or an entity offering services relating to the administration of health benefit plans to members and annuitants, to disclose to the Board of Administration of the Public Employees' Retirement System, staff, and any contractor or consultant of the system, the cost, utilization, actual claim payments, and contract allowance amounts for health care services rendered by participating hospitals, with specified restrictions and disclosure limitations imposed upon the board, staff, and any contractor or consultant of the system to whom the information is disclosed. The bill would deem this information confidential, subject to evidentiary trade secret protections, and exempt from the California Public Records Act, as specified.

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

SECTION 1. Section 22854.5 is added to the Government Code, to read:

22854.5. (a) A health benefit plan or contractor, or an entity offering services relating to the administration of health benefit plans to members and annuitants, shall disclose to the board, staff, and any contractor or consultant of the system, the cost, utilization, actual claim payments, and contract allowance amounts for health

care services rendered by participating hospitals to each member and annuitant.

(b) The information specified in subdivision (a) shall be deemed confidential information and protected in accordance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg), the final regulations issued pursuant to the act by the United States Department of Health and Human Services (45 C.F.R. Parts 160 and 164), and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code). Information provided to the board, staff, and any contractor or consultant of the system shall not include individual member or annuitant identifying information.

(c) The information specified in subdivision (a) shall be deemed to be confidential trade secret information in accordance with subdivision (d) of Section 3426.1 of the Civil Code and Section 1060 of the Evidence Code.

(d) The board shall not disclose the information specified in subdivision (a) in either individual or aggregated form to any other health care service plan or insurer or any entity offering services relating to the administration of health benefit plans, and shall not make this information available to the public, including, but not limited to, any summaries, compilations, or rankings derived from this information. This information shall be used only to make decisions that materially affect the members and annuitants of the health benefits program established by the board.

(e) Any staff, contractor, or consultant to whom information is disclosed pursuant to subdivision (a) shall be subject to all the restrictions in this section regarding the confidentiality and nondisclosure of that information.

(f) The information specified in subdivision (a), in either individual or aggregated form, shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) pursuant to subdivision (k) of Section 6254.

(g) Upon request from a hospital, the board shall, on an annual basis, provide the hospital a reasonable opportunity to validate the data that has been provided to the board by a health insurer, health care service plan, or entity pursuant to subdivision (a).

(h) For purposes of this section:

(1) “Actual claim payment” means the actual amount paid by the health care plan or administrator to the participating hospital for a health care service rendered to a member or annuitant, exclusive of member or annuitant cost sharing and any other payment adjustments.

(2) “Contract allowance amounts” means the negotiated rate that the participating hospital agrees to accept as payment for a health care service rendered to a member or annuitant under the provider agreement between the health plan or administrator and the participating hospital.

(3) “Cost” means the full amount billed by the participating hospital for a health care service rendered to a member or annuitant.

Approved _____, 2007

Governor