

**ASSEMBLY BILL**

**No. 78**

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**Introduced by Assembly Member Gallegos**

December 8, 1998

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An act to amend Sections 1368, 1368.01, and 1368.03 of, to amend, repeal, and add Sections 1341, 1342.5, 1347, and 1368.02 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 introduced, Gallegos. Health care coverage: Board 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 Board of Managed Health Care in the State and Consumer Services Agency, on and after March 1, 2000, with prescribed membership and duties.

The bill would require the board to administer and enforce the regulation of health care service plans on and after July 1, 2000.

The bill would require the board 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 board and the committee to make various reports to the Governor and Legislature.

(3) Existing law authorizes a subscriber or enrollee to submit a grievance or complaint to the department for review, after completion of a plan's grievance process or participation in the process for 60 days.

This bill would change the length of time to 30 days.

(4) Under existing law, willful violation of any provisions relating to the licensure and regulation of health care service plans is punishable as either a felony or a misdemeanor.

Existing law requires a plan to resolve grievances within 30 days whenever possible and to provide enrollees and subscribers with a written statement on the disposition or pending status of the grievance within 30 days of the plan's receipt of the grievance.

This bill would instead require a plan to resolve grievances within 30 days without condition and would require the written statement to be provided within 15 days of receipt of the plan's receipt of the grievance.

By changing the definition of a crime, this bill would impose a state-mandated local program.

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

SEC. 6. 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. The Legislature finds and declares all of  
2 the following:

3 (a) The regulation of health care services is a critical  
4 issue for the public. There is a growing concern about the  
5 emerging penetration of managed care health systems  
6 that cut costs by denying or delaying medically necessary  
7 patient care. Recent health care reform initiatives on the  
8 state ballot, and the numerous patient protection bills  
9 introduced in the California Legislature and in the  
10 Congress of the United States, demonstrate the depth of  
11 public concern being raised about the inadequacy of  
12 current government regulation of managed health care  
13 services.

14 (b) Health care service plans operating in California  
15 are currently licensed and regulated, pursuant to the  
16 Knox-Keene Health Care Service Plan Act of 1975, by the  
17 Department of Corporations, which is a department  
18 primarily concerned with financial matters involving  
19 securities and franchise investments, lender and fiduciary  
20 plans, and health plans. The Department of Corporations  
21 is part of the Business, Transportation and Housing  
22 Agency. The Department of Corporations has  
23 traditionally focused its attention on securing the  
24 financial health and solvency of health plans, with only  
25 modest attention paid to patient protection and quality of  
26 care issues. Few consumers in California realize that their  
27 health care service plans are subject to regulation by the  
28 Department of Corporations.

29 (c) Disability insurers operating in California that  
30 cover hospital, medical, or surgical expenses, including  
31 insurers that provide such coverage through a preferred  
32 provider organization, exclusive provider organization,  
33 or a similar managed health care system, are licensed and  
34 regulated by the Department of Insurance under the  
35 Insurance Code. It is inefficient for state government to



1 regulate separately, in two different departments, health  
2 plan and health insurance coverage, and many  
3 consumers are confused about whether the Department  
4 of Corporations or the Department of Insurance  
5 regulates their provider of health care coverage.

6 (d) Some types of medical groups that provide or  
7 arrange for medical care and bear significant financial  
8 risk related to the provision of medical care are regulated  
9 by the Department of Corporations and some are not  
10 directly regulated by the state and pose a serious risk to  
11 patients with regard to medical group financial solvency  
12 and related ability to provide care, and medical group  
13 obligation and commitment to provide quality health  
14 care services.

15 (e) The Managed Health Care Improvement Task  
16 Force, created by the passage of Assembly Bill 2343 of the  
17 1995–96 Regular Session, Chapter 815, Statutes of 1996,  
18 issued a report in January of 1998 recommending that a  
19 new state entity for regulation of managed health care  
20 should be created to regulate health care service plans  
21 currently regulated by the Department of Corporations  
22 and to phase in the regulation of other health care  
23 entities.

24 (f) As one option, the task force recommended that  
25 the new state entity be led by a board that would meet  
26 publicly to review and approve major policy and  
27 regulatory matters, comprising five or more individuals  
28 appointed to staggered terms, with a majority appointed  
29 by the Governor, including the chairperson, and at least  
30 one member each appointed by the Assembly and  
31 Senate, with part-time board members working with the  
32 full-time chairperson, who would have day-to-day  
33 operating responsibility and authority, and who would be  
34 an individual of stature in the health services field. Task  
35 force members in support of a board maintain that such  
36 a body would provide continuity and stability and a public  
37 process and, therefore, would ensure confidence in the  
38 decisionmaking and greater independence from political  
39 interference.



1 (g) The task force recommended that the Governor  
2 and Legislature consider transferring to the new entity  
3 the regulation of health insurers, currently regulated by  
4 the Department of Insurance under the Insurance Code,  
5 that provide health insurance coverage through  
6 indemnity, preferred provider organizations, and  
7 exclusive provider organizations.

8 (h) The task force also recommended that the  
9 Governor and Legislature should consider having the  
10 new entity directly regulate, for solvency and quality,  
11 medical groups, independent practice associations, and  
12 other provider entities that contribute to medical  
13 decisions and that bear significant risk.

14 (i) Therefore, the Legislature declares that it would be  
15 in the best interest of the citizens of California to transfer  
16 government responsibilities related to the regulation of  
17 health care service plans to a new Board of Managed  
18 Health Care in the State and Consumer Services Agency,  
19 dedicated to consumer protection and quality health  
20 care, and thereafter to transfer to the new board the  
21 regulation of health insurers, currently regulated by the  
22 Department of Insurance, that provide health insurance  
23 coverage through indemnity, preferred provider  
24 organizations, exclusive provider organizations, or  
25 through other managed health care systems.

26 SEC. 2. Section 1341 of the Health and Safety Code is  
27 amended to read:

28 1341. (a) Responsibility for the administration and  
29 enforcement of this chapter is vested in the  
30 Commissioner of Corporations. All references to  
31 commissioner in this chapter shall be references to the  
32 Commissioner of Corporations and all references to  
33 department shall be references to the Department of  
34 Corporations.

35 (b) *This section shall become inoperative on July 1,*  
36 *2000, and, as of January 1, 2001, is repealed, unless a later*  
37 *enacted statute, that becomes operative on or before*  
38 *January 1, 2001, deletes or extends the dates on which it*  
39 *becomes inoperative and is repealed.*



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

3 1341. (a) Responsibility for the administration and  
4 enforcement of this chapter is vested in the Board of  
5 Managed Health Care established pursuant to Division  
6 108 (commencing with Section 140000). All references to  
7 commissioner in this chapter shall be references to the  
8 Board of Managed Health Care and all references to  
9 department or board shall be references to the Board of  
10 Managed Health Care.

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

12 SEC. 4. Section 1342.5 of the Health and Safety Code  
13 is amended to read:

14 1342.5. (a) The commissioner shall consult with the  
15 Insurance Commissioner prior to adopting any  
16 regulations applicable to health care service plans subject  
17 to this chapter and nonprofit hospital service plans  
18 subject to Chapter 11A (commencing with Section  
19 11491) of Part 2 of Division 2 of the Insurance Code and  
20 other entities governed by the Insurance Code for the  
21 specific purpose of ensuring, to the extent practical, that  
22 there is consistency of regulations applicable to these  
23 plans and entities by the Insurance Commissioner and the  
24 Commissioner of Corporations.

25 (b) *This section shall become inoperative on July 1,*  
26 *2000, and, as of January 1, 2001, is repealed, unless a later*  
27 *enacted statute, that becomes operative on or before*  
28 *January 1, 2001, deletes or extends the dates on which it*  
29 *becomes inoperative and is repealed.*

30 SEC. 5. Section 1342.5 is added to the Health and  
31 Safety Code, to read:

32 1342.5. (a) The Board of Managed Health Care shall  
33 consult with the Insurance Commissioner and the  
34 Director of Health Services prior to adopting any  
35 regulations applicable to health care service plans subject  
36 to this chapter for the specific purpose of ensuring, to the  
37 extent practical, that there are efficient and cost-effective  
38 health services and consistency of regulations applicable  
39 to those plans and to the disability insurers and other



1 health plans subject to the jurisdiction of the Insurance  
2 Commissioner and the Director of Health Services.

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

9 SEC. 6. Section 1347 of the Health and Safety Code is  
10 amended to read:

11 1347. (a) There is established in the Department of  
12 Corporations a Health Care Service Plan Advisory  
13 Committee consisting of 20 members. The members shall  
14 consist of the commissioner or the commissioner's  
15 designee; a physician and surgeon with five years'  
16 experience in providing services to enrollees of a health  
17 care service plan; a person with expertise and five years'  
18 experience in an administrative capacity of a  
19 hospital-based plan; a person with five years' experience  
20 with a corporation formed under Section 9201 of the  
21 Corporations Code; a person with five years' experience  
22 with a non-hospital-based independent practice  
23 association; a person with expertise and five years'  
24 experience in a health care service plan ~~which~~ *that* is a  
25 hospital-based independent practice association; a person  
26 with five years' experience in an administrative capacity  
27 with a non-hospital-based health care service plan; a  
28 person with five years' experience in an administrative  
29 capacity with a specialized health care service plan; a  
30 certified public accountant with five years' experience in  
31 auditing plans; and six public members having no  
32 financial interest in the delivery of health care services or  
33 in plans except for being enrolled in a health care service  
34 plan or specialized health care service plan.

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



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

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

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

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



1 make recommendations to the commissioner regarding  
2 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 it*  
7 *becomes inoperative and is repealed.*

8 SEC. 7. 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 board for  
35 a term of three years, however, of the members first  
36 appointed, nine shall serve for a term of one year and 10  
37 shall serve for a term of two years, as designated by the  
38 board.

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 board.

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 board 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 board in the implementation of the duties of the board  
24 under this chapter. The advisory committee shall focus on  
25 major policy and planning issues, including issues  
26 associated with helping patients secure health care  
27 services to which they are entitled under the laws  
28 administered by the board. The board shall consult with  
29 the advisory committee on regulations and the  
30 recommendations of the committee shall be made a part  
31 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 board from adopting urgency  
36 regulations pursuant to the Administrative Procedure  
37 Act (Chapter 3 (commencing with Section 11340) of Part  
38 1 of Division 3 of Title 2 of the Government Code). The  
39 board shall discuss budget changes relating to the  
40 administration of this chapter with the advisory



1 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. 8. Section 1368 of the Health and Safety Code is  
7 amended to read:

8 1368. (a) Every plan shall do all of the following:

9 (1) Establish and maintain a grievance system  
10 approved by the department under which enrollees may  
11 submit their grievances to the plan. Each system shall  
12 provide reasonable procedures in accordance with  
13 department regulations that shall ensure adequate  
14 consideration of enrollee grievances and rectification  
15 when appropriate.

16 (2) Inform its subscribers and enrollees upon  
17 enrollment in the plan and annually thereafter of the  
18 procedure for processing and resolving grievances. The  
19 information shall include the location and telephone  
20 number where grievances may be submitted.

21 (3) Provide forms for complaints to be given to  
22 subscribers and enrollees who wish to register written  
23 complaints. The forms used by plans licensed pursuant to  
24 Section 1353 shall be approved by the commissioner in  
25 advance as to format.

26 (4) Keep in its files all copies of complaints, and the  
27 responses thereto, for a period of five years.

28 (b) (1) (A) After either completing the grievance  
29 process described in subdivision (a), or participating in  
30 the process for at least ~~60~~ 30 days, a subscriber or enrollee  
31 may submit the grievance or complaint to the  
32 department for review. In any case determined by the  
33 department to be a case involving an imminent and  
34 serious threat to the health of the patient, including, but  
35 not limited to, the potential loss of life, limb, or major  
36 bodily function, or in any other case where the  
37 department determines that an earlier review is  
38 warranted, a subscriber or enrollee shall not be required  
39 to complete the grievance process or participate in the  
40 process for at least ~~60~~ 30 days.



1 (B) A grievance or complaint may be submitted to the  
2 department for review and resolution prior to any  
3 arbitration.

4 (C) Notwithstanding subparagraphs (A) and (B), the  
5 department may refer any grievance or complaint to the  
6 State Department of Health Services, the Department of  
7 Aging, the federal Health Care Financing  
8 Administration, or any other appropriate governmental  
9 entity for investigation and resolution.

10 (2) If the subscriber or enrollee is a minor, or is  
11 incompetent or incapacitated, the parent, guardian,  
12 conservator, relative, or other designee of the subscriber  
13 or enrollee, as appropriate, may submit the grievance or  
14 complaint to the department as the agent of the  
15 subscriber or enrollee. Further, a provider may join with,  
16 or otherwise assist, a subscriber or enrollee, or the agent,  
17 to submit the grievance or complaint to the department.  
18 In addition, following submission of the grievance or  
19 complaint to the department, the subscriber or enrollee,  
20 or the agent, may authorize the provider to assist,  
21 including advocating on behalf of the subscriber or  
22 enrollee. For purposes of this section, a “relative”  
23 includes the parent, stepparent, spouse, adult son or  
24 daughter, grandparent, brother, sister, uncle, or aunt of  
25 the subscriber or enrollee.

26 (3) The department shall review the written  
27 documents submitted with the subscriber’s or the  
28 enrollee’s request for review, or submitted by the agent  
29 on behalf of the subscriber or enrollee. The department  
30 may ask for additional information, and may hold an  
31 informal meeting with the involved parties, including  
32 providers who have joined in submitting the grievance or  
33 complaint, or who are otherwise assisting or advocating  
34 on behalf of the subscriber or enrollee. The department  
35 shall send a written notice of the final disposition of the  
36 grievance or complaint, and the reasons therefor, to the  
37 subscriber or enrollee, the agent, to any provider that has  
38 joined with or is otherwise assisting the subscriber or  
39 enrollee, and to the plan, within 60 calendar days of  
40 receipt of the request for review unless the commissioner,



1 in his or her discretion, determines that additional time  
2 is reasonably necessary to fully and fairly evaluate the  
3 relevant grievance or complaint. Distribution of the  
4 written notice shall not be deemed a waiver of any  
5 exemption or privilege under existing law, including, but  
6 not limited to, Section 6254.5 of the Government Code,  
7 for any information in connection with and including the  
8 written notice, nor shall any person employed or in any  
9 way retained by the department be required to testify as  
10 to that information or notice. On or before January 1,  
11 1997, the commissioner shall establish and maintain a  
12 system of aging of complaints that are pending and  
13 unresolved for 60 days or more, that shall include a brief  
14 explanation of the reasons each complaint is pending and  
15 unresolved for 60 days or more.

16 (4) A subscriber or enrollee, or the agent acting on  
17 behalf of a subscriber or enrollee, may also request  
18 voluntary mediation with the plan prior to exercising the  
19 right to submit a grievance or complaint to the  
20 department. The use of mediation services shall not  
21 preclude the right to submit a grievance or complaint to  
22 the department upon completion of mediation. In order  
23 to initiate mediation, the subscriber or enrollee, or the  
24 agent acting on behalf of the subscriber or enrollee, and  
25 the plan shall voluntarily agree to mediation. Expenses  
26 for mediation shall be borne equally by both sides. The  
27 department shall have no administrative or enforcement  
28 responsibilities in connection with the voluntary  
29 mediation process authorized by this paragraph.

30 (c) The plan's grievance system shall include a system  
31 of aging of complaints that are pending and unresolved  
32 for 30 days or more. On or before January 1, 1997, the plan  
33 shall provide a quarterly report to the commissioner of  
34 complaints pending and unresolved for 30 or more days  
35 with separate categories of complaints for Medicare  
36 enrollees and Medi-Cal enrollees. The plan shall include  
37 with the report a brief explanation of the reasons each  
38 complaint is pending and unresolved for 30 days or more.  
39 The plan may include the following statement in the  
40 quarterly report that is made available to the public by



1 the commissioner:  
2

3 “Under Medicare and Medi-Cal law, Medicare  
4 enrollees and Medi-Cal enrollees each have separate  
5 avenues of appeal that are not available to other  
6 enrollees. Therefore, complaints pending and  
7 unresolved may reflect enrollees pursuing their  
8 Medicare or Medi-Cal appeal rights.”  
9

10 If requested by a plan, the commissioner shall include this  
11 statement in a written report made available to the public  
12 and prepared by the commissioner that describes or  
13 compares complaints that are pending and unresolved  
14 with the plan for 30 days or more. Additionally, the  
15 commissioner shall, if requested by a plan, append to that  
16 written report a brief explanation, provided in writing by  
17 the plan, of the reasons why complaints described in that  
18 written report are pending and unresolved for 30 days or  
19 more. The commissioner shall not be required to include  
20 a statement or append a brief explanation to a written  
21 report that the commissioner is required to prepare  
22 under this chapter, including Sections 1380 and 1397.5.

23 (d) Subject to subparagraph (C) of paragraph (1) of  
24 subdivision (b), the grievance, complaint, or resolution  
25 procedures authorized by this section shall be in addition  
26 to any other procedures that may be available to any  
27 person, and failure to pursue, exhaust, or engage in the  
28 procedures described in this section shall not preclude  
29 the use of any other remedy provided by law.

30 (e) Nothing in this section shall be construed to allow  
31 the submission to the department of any provider  
32 complaint or grievance under this section. However, as  
33 part of a provider’s duty to advocate for medically  
34 appropriate health care for his or her patients pursuant  
35 to Sections 510 and 2056 of the Business and Professions  
36 Code, nothing in this subdivision shall be construed to  
37 prohibit a provider from contacting and informing the  
38 department about any concerns he or she has regarding  
39 compliance with or enforcement of this chapter.



1 SEC. 9. Section 1368.01 of the Health and Safety Code  
2 is amended to read:

3 1368.01. (a) The grievance system shall require the  
4 plan to resolve grievances within 30 days whenever  
5 possible and shall require the plan to provide enrollees  
6 and subscribers with a written statement on the  
7 disposition or pending status of the grievance within ~~30~~  
8 15 days of the plan's receipt of the grievance.

9 (b) The grievance system shall include a requirement  
10 for expedited plan review of grievances for cases  
11 involving an imminent and serious threat to the health of  
12 the patient, including, but not limited to, potential loss of  
13 life, limb, or major bodily function. When the plan has  
14 notice of a case requiring expedited review, the  
15 grievance system shall require the plan to immediately  
16 inform enrollees and subscribers in writing of their right  
17 to notify the department of the grievance. The grievance  
18 system shall also require the plan to provide enrollees,  
19 subscribers, and the department with a written statement  
20 on the disposition or pending status of the grievance no  
21 later than ~~five~~ *three* days from receipt of the grievance.

22 SEC. 10. Section 1368.02 of the Health and Safety  
23 Code, as added by Section 3 of Chapter 377 of the Statutes  
24 of 1998, is amended to read:

25 1368.02. (a) The commissioner shall establish and  
26 maintain a toll-free telephone number for the purpose of  
27 receiving complaints regarding health care service plans  
28 regulated by the commissioner.

29 (b) Every health care service plan shall publish the  
30 department's toll-free telephone number, the California  
31 Relay Service's toll-free telephone numbers for the  
32 hearing and speech impaired, the plan's telephone  
33 number, and the department's Internet address, on every  
34 plan contract, on every evidence of coverage, on copies  
35 of plan grievance procedures, on plan complaint forms,  
36 and on all written notices to enrollees required under the  
37 grievance process of the plan, including any written  
38 communications to an enrollee that offer the enrollee the  
39 opportunity to participate in the grievance process of the  
40 plan and on all written responses to grievances. The



1 department's telephone number, the California Relay  
2 Service's telephone numbers, the plan's telephone  
3 number, and the department's Internet address shall be  
4 displayed by the plan in each of these documents in  
5 12-point boldface type in the following regular type  
6 statement:

7  
8 "The California Department of Corporations is  
9 responsible for regulating health care service plans. The  
10 department's Health Plan Division has a toll-free  
11 telephone number (1-800-400-0815) to receive  
12 complaints regarding health plans. The hearing and  
13 speech impaired may use the California Relay Service's  
14 toll-free telephone numbers (1-800-735-2929 (TTY) or  
15 1-888-877-5378 (TTY)) to contact the department. The  
16 department's Internet website  
17 (<http://www.corp.ca.gov>) has complaint forms and  
18 instructions online. If you have a grievance against your  
19 health plan, you should first telephone your plan at [plan's  
20 telephone number] and use the plan's grievance process  
21 before contacting the Health Plan Division. If you need  
22 help with a grievance involving an emergency, a  
23 grievance that has not been satisfactorily resolved by your  
24 plan, or a grievance that has remained unresolved for  
25 more than 60 days, you may call the Health Plan Division  
26 for assistance. The plan's grievance process and the  
27 Health Plan Division's complaint review process are in  
28 addition to any other dispute resolution procedures that  
29 may be available to you, and your failure to use these  
30 processes does not preclude your use of any other remedy  
31 provided by law."

32  
33 (c) The commissioner shall designate an  
34 ombudsperson. The duties of the ombudsperson shall be  
35 determined by the commissioner. The commissioner may  
36 designate a member of the existing staff to serve as the  
37 ombudsperson.

38 (d) This section shall become ~~operative on July 1, 1999~~  
39 *inoperative on July 1, 2000, and, as of January 1, 2001, is*  
40 *repealed, unless a later enacted statute, that becomes*



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

4 SEC. 11. Section 1368.02 is added to the Health and  
5 Safety Code, to read:

6 1368.02. (a) The board shall establish and maintain a  
7 toll-free telephone number for the purpose of receiving  
8 complaints regarding health care service plans regulated  
9 by the board. The board shall coordinate with the  
10 Department of Insurance to use the board's toll-free  
11 telephone number also to provide advice and assistance  
12 to disability insurance policyholders, as provided in  
13 Section 140257.

14 (b) Every health care service plan shall publish the  
15 board's toll-free telephone number, the California Relay  
16 Service's toll-free telephone numbers for the hearing and  
17 speech impaired, the plan's telephone number, and the  
18 board's Internet address, on every plan contract, on every  
19 evidence of coverage, on copies of plan grievance  
20 procedures, on plan complaint forms, and on all written  
21 notices to enrollees required under the grievance process  
22 of the plan, including any written communications to an  
23 enrollee that offer the enrollee the opportunity to  
24 participate in the grievance process of the plan and on all  
25 written responses to grievances. The board's telephone  
26 number, the California Relay Service's telephone  
27 numbers, the plan's telephone number, and the board's  
28 Internet address shall be displayed by the plan in each of  
29 these documents in 12-point boldface type in the  
30 following regular type statement:

31  
32 "The Board of Managed Health Care is responsible  
33 for regulating health care service plans. The board's  
34 Patient Advocate Division has a toll-free telephone  
35 number (1-800-400-0815) to receive complaints  
36 regarding health plans. The hearing and speech  
37 impaired may use the California Relay Service's  
38 toll-free telephone numbers (1-800-735-2929 (TTY)  
39 or 1-888-877-5378 (TTY)) to contact the board. The  
40 board's Internet website



1 (http://www.bmhc.ca.gov) has complaint forms and  
 2 instructions on line. If you have a grievance against  
 3 your health plan, you should first telephone your plan  
 4 at (plan’s telephone number) and use the plan’s  
 5 grievance process before contacting the Patient  
 6 Advocate Division. If you need help with a grievance  
 7 involving an emergency, a grievance that has not  
 8 been satisfactorily resolved by your plan, or a  
 9 grievance that has remained unresolved for more  
 10 than 30 days, you may call the Patient Advocate  
 11 Division for assistance. The plan’s grievance process  
 12 and the Patient Advocate Division’s complaint  
 13 review process are in addition to any other dispute  
 14 resolution procedures that may be available to you,  
 15 and your failure to use these processes does not  
 16 preclude your use of any other remedy provided by  
 17 law.”

18  
 19 (c) This section shall become operative on July 1, 2000.

20 SEC. 12. Section 1368.03 of the Health and Safety  
 21 Code is amended to read:

22 1368.03. (a) The department may require enrollees  
 23 and subscribers to participate in a plan’s grievance  
 24 process for up to ~~60~~ 30 days before pursuing a complaint  
 25 through the department. However, the department may  
 26 not impose this waiting period in cases covered by  
 27 subdivision (b) of Section 1368.01 or in any other case  
 28 where the department determines that an earlier review  
 29 is warranted.

30 (b) Notwithstanding subdivision (a), the department  
 31 may refer any grievance or complaint to the State  
 32 Department of Health Services, the Department of  
 33 Aging, the federal Health Care Financing  
 34 Administration, or any other appropriate governmental  
 35 entity for investigation and resolution.

36 SEC. 13. Division 108 (commencing with Section  
 37 140000) is added to the Health and Safety Code, to read:

38



1 DIVISION 108. BOARD OF MANAGED HEALTH  
2 CARE

3  
4 CHAPTER 1. ESTABLISHMENT  
5

6 140000. This division shall be known and may be cited  
7 as the Rosenthal-Gallegos Board of Managed Health Care  
8 Act.

9 140001. There is in the State and Consumer Services  
10 Agency a Board of Managed Health Care.

11 140004. This chapter shall become operative on  
12 March 1, 2000.  
13

14 CHAPTER 2. MEMBERSHIP  
15

16 140005. The board shall be composed of five  
17 members.

18 140006. (a) The Governor shall appoint three  
19 members, subject to confirmation by the Senate,  
20 including the chairperson.

21 (b) The Senate Committee on Rules shall appoint one  
22 member.

23 (c) The Speaker of the Assembly shall appoint one  
24 member.

25 140007. (a) Each member of the board shall be  
26 appointed for a term of four years. For purposes of the  
27 initial appointments, the Governor shall appoint one  
28 member to a two-year term, one member to a three-year  
29 term, and one member, designated by the Governor as  
30 the chairperson, to a four-year term. The initial  
31 appointment by the Speaker of the Assembly shall be for  
32 a two-year term. The initial appointment by the Senate  
33 Committee on Rules shall be for a three-year term.  
34 Vacancies occurring on the board shall be filled by  
35 appointment of the appointing power for the unexpired  
36 term.

37 (b) The appointing power may remove any member  
38 of the board for neglect of duty required by this division,  
39 incompetence, or unprofessional conduct.

1 140008. The chairperson of the board shall hold a  
2 full-time position. The remaining board members shall  
3 hold part-time positions.

4 140009. The chairperson shall serve as the principal  
5 advisor to, and spokesperson for, the Governor on, and  
6 shall assist the Governor in establishing, major policy and  
7 program matters concerning managed health care.

8 140010. Every two years, the board shall elect a vice  
9 chairperson from its members.

10 140011. (a) The chairperson of the board shall  
11 receive the salary provided for by Chapter 6  
12 (commencing with Section 11550) of Part 1 of Division 3  
13 of Title 2 of the Government Code. The remaining board  
14 members shall receive a salary that is one-third of that  
15 amount.

16 (b) Each member of the state board shall receive his  
17 or her actual necessary traveling and other expenses  
18 incurred in the performance of his or her official duties.  
19 When necessary, the members of the board and its  
20 employees may travel within or without the state.

21 140012. No person who is, or within two years prior to  
22 appointment has been, employed by, contracted to  
23 provide services to, part of a brokerage or agency  
24 relationship with, or a member of the board of directors  
25 of, a health care service plan or disability insurer subject  
26 to the regulatory jurisdiction of the board or the  
27 Department of Insurance may be appointed to the board.

28 140013. While serving on the board, no board  
29 member shall make, participate in making, or in any way  
30 attempt to use his or her official position to influence the  
31 making of any decision that he or she knows or has reason  
32 to know will have a reasonably foreseeable material  
33 financial effect, distinguishable from its effect on the  
34 public generally, on the board member or on a member  
35 of his or her immediate family, or otherwise make,  
36 participate in making, or in any way use his or her official  
37 position to influence any other financial interest as  
38 prohibited by the Political Reform Act of 1974 (Title 9  
39 (commencing with Section 81000) of the Government  
40 Code).



1 140014. No person appointed to the board may be  
2 employed by, contract to provide services to, be part of  
3 a brokerage or agency relationship with, or serve on the  
4 board of directors of, a health care service plan or  
5 disability insurer subject to the regulatory jurisdiction of  
6 the board or the Department of Insurance for a period of  
7 12 months after service on the board.

8 140024. This chapter shall become operative on  
9 March 1, 2000.

10  
11 CHAPTER 3. MEETINGS  
12

13 140025. The board shall hold regular public meetings  
14 at least once a month to review major policy and  
15 regulatory matters. Special meetings may be called by the  
16 chairperson or upon the request of a majority of the  
17 members.

18 140026. In addition to the regularly scheduled and any  
19 special meetings of the board, the board shall convene at  
20 least two public hearings each calendar year to receive  
21 public testimony regarding matters affecting the  
22 interests of patients served by entities regulated by the  
23 board. The board may hold such public hearings in  
24 conjunction with meetings of the Advisory Committee on  
25 Managed Care established pursuant to Section 1347.

26 140027. The board shall comply with the  
27 Bagley-Keene Open Meeting Act (Article 9  
28 (commencing with Section 11120) of Chapter 1 of  
29 Division 3 of Title 2 of the Government Code), including,  
30 but not limited to, deliberating and taking action in  
31 public after providing an opportunity for members of the  
32 public to address the board directly.

33 140039. This chapter shall become operative on  
34 March 1, 2000.

35  
36 CHAPTER 4. ADMINISTRATION  
37

38 140040. The central office of the board shall be in the  
39 City of Sacramento. The board may also establish other  
40 suboffices as it may deem necessary.

1 140041. The chairperson of the board may appoint  
2 two full-time advisers exempt from the Civil Service Act  
3 (Part 2 (commencing with Section 18500) of Division 5 of  
4 Title 2 of the Government Code) who shall advise, assist,  
5 and serve at the pleasure of the chairperson. Each of the  
6 other board members may appoint one full-time adviser  
7 each, exempt from the Civil Service Act, who shall advise,  
8 assist, and serve at the pleasure of the appointing board  
9 members. Board members may designate an existing  
10 board employee to serve as an adviser.

11 140042. (a) The board shall appoint an executive  
12 officer who shall serve at the pleasure of the board and the  
13 board may delegate any duty to the executive office that  
14 the board deems appropriate.

15 (b) It is the intent of the Legislature that the executive  
16 officer shall perform and discharge, under the direction  
17 and control of the board, the powers, duties, purposes,  
18 functions, and jurisdiction vested in the board and  
19 delegated to the executive officer by the board.

20 (c) Any power, duty, purpose, function, or jurisdiction  
21 that the board may lawfully delegate shall be conclusively  
22 presumed to have been delegated to the executive officer  
23 unless it is shown that the board, by affirmative vote  
24 recorded in the minutes of the board, expressly has  
25 reserved the same for the board's own action. The  
26 executive officer may redelegate to subordinates unless,  
27 by board rule or express provision of law, the executive  
28 officer is expressly required to act personally.

29 140043. In addition to the executive officer, the board  
30 shall also employ a general counsel, an ombudsperson, a  
31 public information and education officer, a chief of policy,  
32 planning, and interagency coordination, division chiefs,  
33 and other persons as it may deem necessary to carry into  
34 effect this chapter.

35 140044. The board may fix the compensation to be  
36 paid for services subject to applicable state laws and  
37 regulations and may incur other expenses as it may deem  
38 necessary.

39 140045. Employees of the board shall, as necessary, be  
40 provided special ongoing training in overseeing the



1 operations of health care service plans and other entities  
2 subject to board jurisdiction to ensure that patients  
3 receive timely access to medically necessary and  
4 appropriate health care services to which they are  
5 entitled under the laws administered by the board.

6 140046. The board may select and contract with  
7 necessary consultants to assist it in its programs. Subject  
8 to Section 19130 of the Government Code, the board may  
9 contract with these consultants on a sole source basis.

10 140049. This chapter shall become operative on  
11 March 1, 2000.

12  
13 CHAPTER 5. OFFICES  
14

15 Article 1. Office of the General Counsel  
16

17 140050. There is within the board an Office of the  
18 General Counsel. The board shall appoint a General  
19 Counsel to manage the office.

20  
21 Article 2. Office of Policy, Planning, and Interagency  
22 Coordination  
23

24 140060. There is within the board an Office of Policy,  
25 Planning, and Interagency Coordination. The board shall  
26 appoint a Policy and Planning Officer to manage the  
27 office.

28 140061. The office shall provide staff support for the  
29 Advisory Committee on Managed Care established  
30 pursuant to Section 1347.

31  
32 Article 3. Public Information and Education Office  
33

34 140070. There is within the board a Public  
35 Information and Education Office. The board shall  
36 appoint a Public Information Officer to manage the  
37 office.  
38

Article 4. Ombudsprogram Office

1  
2  
3 140080. There is within the board an  
4 Ombudsprogram Office.  
5 140081. (a) The board shall appoint an  
6 ombudsperson to manage the office.  
7 (b) The board may also employ staff as necessary to  
8 carry out the duties of the ombudsprogram office, and  
9 shall have at least one staff member of the office assigned  
10 to each of the regional offices of the board.  
11 140082. The ombudsperson shall advise the board on  
12 procedural matters relating to public participation in  
13 proceedings of the board.  
14 140083. The office shall have the following powers  
15 and duties:  
16 (a) The office shall assist members of the public who  
17 have an interest in testifying before, or presenting  
18 information to, the board in any public hearing or  
19 proceeding of the board open to public participation. The  
20 office shall also assist members of the public who have an  
21 interest in participating in the deliberations of the  
22 Advisory Committee on Managed Care, established  
23 pursuant to Section 1347.  
24 (b) The office shall have the capacity to assist  
25 members of the public, including health care service plan  
26 enrollees, in a language other than English if another  
27 language is the primary language used by the individual.  
28 (c) The office shall act as a clearinghouse for the  
29 collection and distribution of information and materials  
30 developed by the board, and by other health care  
31 agencies, including federal, state, and local agencies with  
32 health care responsibilities, regarding public  
33 participation in agency proceedings and dispute  
34 resolution procedures administered by the agencies.  
35 140084. The ombudsperson shall consult and  
36 coordinate with other government and private health  
37 care ombudsprograms, including, but not limited to, any  
38 ombudsprograms administered by the State Department  
39 of Health Services, the Department of Insurance, the



1 California Department of Aging, and federal and local  
2 agencies responsible for health services.

3 140085. The ombudsperson shall provide the board  
4 with an annual report summarizing the activities  
5 undertaken and planned by the office. The report shall be  
6 made available to the public.

7

8

Article 10. Operative Date

9

10 140089. This chapter shall become operative March 1,  
11 2000.

12

13

CHAPTER 6. DIVISIONS

14

15

Article 1. Patient Advocate Division

16

17 140090. There is within the board a patient advocate  
18 division to represent the interests of patients served by  
19 health care entities regulated by the board. The goal of  
20 the division shall be to help patients secure medically  
21 necessary and appropriate health care services to which  
22 they are entitled under the laws administered by the  
23 board.

24 140091. The director of the division shall be an  
25 individual recommended to the Governor by the board  
26 and shall be appointed by and serve at the pleasure of the  
27 Governor, subject to confirmation by the Senate.

28 140092. The board shall, by rule or order, provide for  
29 the assignment of personnel to the division. The division  
30 may employ experts necessary to carry out its functions.  
31 Personnel and resources shall be provided to the division  
32 at a level sufficient to ensure that patient interests are  
33 fully and fairly represented. The annual budget for the  
34 division shall be separately identified in the annual  
35 budget request of the board.

36 140093. The division may compel the production or  
37 disclosure of any information it deems necessary to  
38 perform its duties from entities regulated by the board,  
39 if the information is determined by the General Counsel



1 to be subject, under existing law, to production or  
2 disclosure to the board.

3 140094. The director shall annually appear before the  
4 appropriate policy and fiscal committees of the Senate  
5 and Assembly to report on the activities of the division.

6

7 Article 2. Licensing and Quality Assurance Division

8

9 140100. There is within the board a licensing and  
10 quality assurance division.

11

12 Article 3. Financial Division

13

14 140110. There is within the board a financial division.

15

16 Article 4. Enforcement Division

17

18 140120. There is within the board an enforcement  
19 division.

20 140121. The enforcement division shall include a  
21 liaison officer to the patient advocate division.

22

23 Article 5. Administrative Division

24

25 140130. There is within the board an administrative  
26 division.

27

28 Article 10. Operative Date

29

30 140149. This chapter shall become operative March 1,  
31 2000.

32

33 CHAPTER 7. REGULATION OF HEALTH CARE SERVICE  
34 PLANS

35

36 Article 1. General

37

38 140150. Effective July 1, 1999, responsibility for the  
39 administration and enforcement of the regulation of  
40 health care service plans under the Knox-Keene Health



1 Care Service Plan Act of 1975 (Chapter 2.2 (commencing  
2 with Section 1340) of Division 2) is transferred from the  
3 Department of Corporations to the board.

4 140153. Any rights given by any license issued under  
5 the Knox-Keene Health Care Service Plan Act of 1975  
6 (Chapter 2.2 (commencing with Section 1340) of  
7 Division 2) are not affected by the enactment of this  
8 division, but those rights shall be exercised according to  
9 this division, and under the jurisdiction of the board.

10 140158. It is the intent of the Legislature that all  
11 personnel and funds dedicated to health care service plan  
12 regulation by the Department of Corporations be  
13 transferred to the board on or before July 1, 2000.

14  
15 CHAPTER 8. REGULATION OF HEALTH INSURANCE  
16 PRODUCTS

17  
18 Article 1. General

19  
20 140250. Effective July 1, 2002, responsibility under the  
21 Insurance Code for the administration and enforcement  
22 of the regulation of disability insurers that cover hospital,  
23 medical, or surgical expenses shall be transferred from  
24 the Department of Insurance to the board. For the  
25 purpose of regulating disability insurers that cover  
26 hospital, medical, or surgical expenses, all references to  
27 commissioner and department in the Insurance Code  
28 shall be references to the Board of Managed Health Care.

29 140253. Any rights given by any license issued under  
30 the Insurance Code are not affected by the enactment of  
31 this division, but those rights shall be exercised according  
32 to this division, and under the jurisdiction of the board.

33 140255. On or before March 1, 2001, the board, in  
34 consultation with the Insurance Commissioner and the  
35 Advisory Committee on Managed Care established  
36 pursuant to Section 1347, shall provide the Governor and  
37 Legislature with a report regarding legislation, if any, that  
38 may be necessary and appropriate to facilitate, modify, or  
39 rescind the transfer to the board of jurisdiction over  
40 disability insurers that cover hospital, medical, or surgical

1 expenses, including, but not limited to, disability insurers  
2 that provide that coverage through a preferred provider  
3 organization, exclusive provider organization, or any  
4 other managed health care system.

5 140257. (a) It is the intent of the Legislature that this  
6 article be implemented in a manner that insures the  
7 greatest assistance to disability insurance policyholders  
8 and the least disruption to the business of insurance.

9 (b) The board shall designate an individual who shall  
10 serve as a liaison to the Insurance Commissioner for the  
11 purpose of assisting in the transfer of responsibility  
12 required pursuant to Section 140250.

13 (c) As of January 1, 2000, and until July 1, 2002, the  
14 toll-free telephone number required by Section 1368.02  
15 shall be staffed by personnel equipped to respond to  
16 inquiries regarding disability insurance that covers  
17 hospital, medical, or surgical services as well as to  
18 inquiries regarding health care service plans, and to make  
19 referrals to the Department of Insurance if the staff of the  
20 toll-free telephone number is unable to adequately assist  
21 the consumer, until the board assumes jurisdiction over  
22 disability insurers pursuant to Section 140250. The board  
23 shall coordinate with the Insurance Commissioner,  
24 health care service plans, and disability insurers to  
25 provide notice to enrollees, policyholders, and members  
26 of the public of the availability of a toll-free telephone  
27 number that responds to inquiries involving both health  
28 care service plans and disability insurers.

29 (d) On and after July 1, 2002, the board's toll-free  
30 telephone number shall provide the same services to  
31 policyholders of disability insurance, including the  
32 receipt and consideration of complaints, as provided to  
33 health care service plan enrollees.

34 140258. It is the intent of the Legislature that all  
35 personnel and funds dedicated to the regulation by the  
36 Department of Insurance of disability insurers that cover  
37 hospital, medical, or surgical expenses be transferred to  
38 the board on or before July 1, 2002, unless a later enacted  
39 statute, that becomes operative on or before July 1, 2002,  
40 deletes or extends the date on which jurisdiction shall be



1 transferred from the Department of Insurance to the  
2 board.

3

4 CHAPTER 9. REGULATION OF PROVIDER GROUPS AND  
5 OTHER MANAGED CARE SERVICES

6

7 140300. On or before March 1, 2002, the board, in  
8 consultation with the Advisory Committee on Managed  
9 Care established pursuant to Section 1347, shall provide  
10 the Governor and Legislature with a report regarding  
11 legislation, if any, that may be necessary and appropriate  
12 to expand the board's existing jurisdiction over medical  
13 groups, independent practice associations, and other  
14 provider groups that provide or arrange for medical care  
15 and bear significant financial risk associated with the  
16 provision of the care, and to facilitate the exercise of  
17 jurisdiction by the board over other managed health care  
18 services. The report shall include consideration of  
19 transforming the board into a separate agency or  
20 independent commission.

21 SEC. 14. (a) The sum of three million dollars  
22 (\$3,000,000) is appropriated from the State Corporations  
23 Fund to the Board of Managed Health Care for  
24 expenditure to cover the startup costs of the board and  
25 new personnel and operating expenses necessary to  
26 implement Division 108 (commencing with Section  
27 140000) of the Health and Safety Code. The Board of  
28 Managed Health Care may require health care service  
29 plans to pay an additional assessment sufficient to pay for  
30 these startup costs, new personnel, and expenses.

31 (b) This section shall become operative on March 1,  
32 2000.

33 SEC. 15. No reimbursement is required by this act  
34 pursuant to Section 6 of Article XIII B of the California  
35 Constitution because the only costs that may be incurred  
36 by a local agency or school district will be incurred  
37 because this act creates a new crime or infraction,  
38 eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section  
40 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.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

O

