

AMENDED IN SENATE AUGUST 16, 1999

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) *This bill would declare that it is the intent of the Legislature to conduct a study to evaluate the feasibility of transferring all personnel and funds dedicated to the regulation by the Department of Insurance of disability insurers that cover hospital, medical, or surgical expenses to the department on or before July 1, 2002.*

(4) 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)~~

(5) 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



1 commissioner in this chapter shall be references to the
2 Commissioner of Corporations and all references to
3 department shall be references to the Department of
4 Corporations.

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6 2000, and, as of January 1, 2001, is repealed, unless a later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9 becomes inoperative and is repealed.

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

12 1341. (a) Responsibility for the administration and
13 enforcement of this chapter is vested in the Department
14 of Managed Health Care established pursuant to Division
15 108 (commencing with Section 140000). All references to
16 commissioner in this chapter shall be references to the
17 Department of Managed Health Care and all references
18 to department shall be references to the Department of
19 Managed Health Care.

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

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

23 1342.5. (a) The commissioner shall consult with the
24 Insurance Commissioner prior to adopting any
25 regulations applicable to health care service plans subject
26 to this chapter and nonprofit hospital service plans
27 subject to Chapter 11A (commencing with Section
28 11491) of Part 2 of Division 2 of the Insurance Code and
29 other entities governed by the Insurance Code for the
30 specific purpose of ensuring, to the extent practical, that
31 there is consistency of regulations applicable to these
32 plans and entities by the Insurance Commissioner and the
33 Commissioner of Corporations.

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35 2000, and, as of January 1, 2001, is repealed, unless a later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

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

1 1342.5. (a) The Department of Managed Health
2 Care shall consult with the Insurance Commissioner and
3 the Director of Health Services prior to adopting any
4 regulations applicable to health care service plans subject
5 to this chapter for the specific purpose of ensuring, to the
6 extent practical, that there are efficient and cost-effective
7 health services and consistency of regulations applicable
8 to those plans and to the disability insurers and other
9 health plans subject to the jurisdiction of the Insurance
10 Commissioner and the Director of Health Services.

11 (b) This section shall become operative on July 1, 2000.
12 This section shall become inoperative on July 1, 2002, and,
13 as of January 1, 2003, is repealed, unless a later enacted
14 statute, that becomes operative on or before January 1,
15 2003, deletes or extends the dates on which it becomes
16 inoperative and is repealed.

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

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



1 in plans except for being enrolled in a health care service
2 plan or specialized health care service plan.

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

19 The members shall be appointed by the commissioner
20 for a term of three years, except that of the members first
21 appointed, four shall serve for a term of one year and five
22 shall serve for a term of two years, as designated by the
23 commissioner.

24 The committee shall meet at least quarterly and at the
25 call of the chairperson. The commissioner or the
26 commissioner's designee shall be chairperson of the
27 committee. The committee may establish its own rules
28 and procedures. All members shall serve without
29 compensation, but the six public members shall be
30 reimbursed from department funds for expenses actually
31 and necessarily incurred by them in the performance of
32 their duties.

33 (b) The purpose of the committee is to assist and
34 advise the commissioner in the implementation of the
35 commissioner's duties under this chapter. The
36 commissioner shall consult with the advisory committee
37 on regulations and the recommendations of the
38 committee shall be made a part of the record with regard
39 to those regulations. The committee shall be given at least
40 45 days to review and comment on regulations prior to



1 setting a notice of hearing for proposed regulations.
2 Nothing in this subdivision prohibits the commissioner
3 from promulgating emergency regulations pursuant to
4 the Administrative Procedure Act. The commissioner
5 shall discuss budget changes relating to the
6 administration of this chapter with the committee, and
7 the committee may make recommendations to the
8 commissioner regarding the proposed budget changes.

9 (c) This section shall become inoperative on March 1,
10 2000, and, as of January 1, 2001, is repealed, unless a later
11 enacted statute, that becomes operative on or before
12 January 1, 2001, deletes or extends the dates on which—
13 *it* becomes inoperative and is repealed.

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

16 1347. (a) (1) There is established an Advisory
17 Committee on Managed Care consisting of 29 voting
18 members.

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

20 (A) Six consumer group representatives who advocate
21 on behalf of health plan enrollees and health insurance
22 policyholders, who shall include at least two members
23 representing the interests of vulnerable populations.

24 (B) Four health care service plan enrollees and two
25 health insurance policyholders.

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

28 (D) Two representatives of medical groups.

29 (E) Four representatives of full-service health care
30 service plans.

31 (F) Three representatives of specialized health care
32 service plans.

33 (G) Two representatives of disability insurers that
34 cover hospital, medical, or surgical expenses, including at
35 least one that provides coverage through a preferred
36 provider organization.

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



1 (3) The members shall be appointed by the
2 department for a term of three years, however, of the
3 members first appointed, nine shall serve for a term of
4 one year and 10 shall serve for a term of two years, as
5 designated by the department.

6 (4) The Department of Insurance, Department of
7 Consumer Affairs, State Department of Health Services,
8 Office of Statewide Health Planning and Development,
9 and Department of Industrial Relations shall appoint
10 representatives to serve as nonvoting ex officio members
11 of the advisory committee. The ex officio members shall
12 seek to promote interagency coordination on health care
13 issues and enhanced capabilities, including electronic
14 capabilities, to share information with the department.

15 (5) Every two years, the advisory committee shall
16 elect a chairperson and a vice chairperson from among its
17 voting members.

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

28 (b) The purpose of the advisory committee is to
29 consider various points of view and to assist and advise the
30 department in the implementation of the duties of the
31 department under this chapter. The advisory committee
32 shall focus on major policy and planning issues, including
33 issues associated with helping patients secure health care
34 services to which they are entitled under the laws
35 administered by the department. The department shall
36 consult with the advisory committee on regulations and
37 the recommendations of the committee shall be made a
38 part of the record with regard to those regulations. The
39 advisory committee shall be given at least 45 days to
40 review and comment on regulations prior to setting a



1 notice of hearing for proposed regulations. Nothing in this
 2 subdivision prohibits the department from adopting
 3 urgency regulations pursuant to the Administrative
 4 Procedure Act (Chapter 3 (commencing with Section
 5 11340) of Part 1 of Division 3 of Title 2 of the Government
 6 Code). The department shall discuss budget changes
 7 relating to the administration of this chapter with the
 8 advisory committee, and the committee may make
 9 recommendations to the board regarding the proposed
 10 budget changes.

11 (c) This section shall become operative on March 1,
 12 2000.

13 SEC. 7. Division 108 (commencing with Section
 14 140000) is added to the Health and Safety Code, to read:

15
 16 DIVISION 108. DEPARTMENT OF MANAGED
 17 HEALTH CARE

18
 19 CHAPTER 1. ESTABLISHMENT

20
 21 140000. This division shall be known and may be cited
 22 as the Rosenthal-Gallegos Department of Managed
 23 Health Care Act.

24 140001. There is in the California Managed Health
 25 Care Services Agency a Department of Managed Health
 26 Care. The Governor shall appoint a director of the
 27 department, who shall be subject to confirmation by the
 28 Senate.

29 140004. This chapter shall become operative on
 30 March 1, 2000.

31
 32 CHAPTER 4. ADMINISTRATION

33
 34 140040. The central office of the department shall be
 35 in the City of Sacramento. The department may also
 36 establish other suboffices as it may deem necessary.

37



CHAPTER 5. OFFICES

Article 1. Office of the General Counsel

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

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

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

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

Article 3. Public Information and Education Office

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

Article 10. Operative Date

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

CHAPTER 6. DIVISIONS

Article 1. Patient Advocate Division

140090. There is within the department a patient advocate division to represent the interests of patients served by health care entities regulated by the department. The goal of the division shall be to help patients secure medically necessary and appropriate



1 health care services to which they are entitled under the
2 laws administered by the department.

3 140091. The director of the division shall be an
4 individual recommended to the Governor by the director
5 and shall be appointed by and serve at the pleasure of the
6 Governor, subject to confirmation by the Senate.

7 140092. The department shall, by rule or order,
8 provide for the assignment of personnel to the division.
9 The division may employ experts necessary to carry out
10 its functions. Personnel and resources shall be provided
11 to the division at a level sufficient to ensure that patient
12 interests are fully and fairly represented. The annual
13 budget for the division shall be separately identified in
14 the annual budget request of the department.

15 140093. The division may compel the production or
16 disclosure of any information it deems necessary to
17 perform its duties from entities regulated by the
18 department, if the information is determined by the
19 General Counsel to be subject, under existing law, to
20 production or disclosure to the department.

21 140094. The director shall annually appear before the
22 appropriate policy and fiscal committees of the Senate
23 and Assembly to report on the activities of the division.
24

25 Article 2. Licensing and Quality Assurance Division

26
27 140100. There is within the department a licensing
28 and quality assurance division.
29

30 Article 3. Financial Division

31
32 140110. There is within the department a financial
33 division.
34

35 Article 4. Enforcement Division

36
37 140120. There is within the department an
38 enforcement division.

39 140121. The enforcement division shall include a
40 liaison officer to the patient advocate division.



1 Article 5. Administrative Division

2
3 140130. There is within the department an
4 administrative division.

5
6 Article 10. Operative Date

7
8 140149. This chapter shall become operative March 1,
9 2000.

10
11 CHAPTER 7. REGULATION OF HEALTH CARE SERVICE
12 PLANS

13
14 Article 1. General

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16 140150. Effective July 1, 2000, responsibility for the
17 administration and enforcement of the regulation of
18 health care service plans under the Knox-Keene Health
19 Care Service Plan Act of 1975 (Chapter 2.2 (commencing
20 with Section 1340) of Division 2) is transferred from the
21 Department of Corporations to the department.

22 140153. Any rights given by any license issued under
23 the Knox-Keene Health Care Service Plan Act of 1975
24 (Chapter 2.2 (commencing with Section 1340) of
25 Division 2) are not affected by the enactment of this
26 division, but those rights shall be exercised according to
27 this division, and under the jurisdiction of the
28 department.

29 140158. It is the intent of the Legislature that all
30 personnel and funds dedicated to health care service plan
31 regulation by the Department of Corporations be
32 transferred to the department on or before July 1, 2000.

33
34 CHAPTER 8. REGULATION OF HEALTH INSURANCE
35 PRODUCTS

36
37 Article 1. General

38
39 140250. Effective July 1, 2002, responsibility under the
40 Insurance Code for the administration and enforcement

1 of the regulation of disability insurers that cover hospital,
2 medical, or surgical expenses shall be transferred from
3 the Department of Insurance to the department. For the
4 purpose of regulating disability insurers that cover
5 hospital, medical, or surgical expenses, all references to
6 commissioner and department in the Insurance Code
7 shall be references to the Department of Managed Health
8 Care.

9 140253. Any rights given by any license issued under
10 the Insurance Code are not affected by the enactment of
11 this division, but those rights shall be exercised according
12 to this division, and under the jurisdiction of the
13 department.

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

26 140257. (a) It is the intent of the Legislature that this
27 article be implemented in a manner that ~~insures~~ *ensures*
28 the greatest assistance to disability insurance
29 policyholders and the least disruption to the business of
30 insurance.

31 (b) The director shall designate an individual who
32 shall serve as a liaison to the Insurance Commissioner for
33 the purpose of assisting in the transfer of responsibility
34 required pursuant to Section 140250.

35 (c) As of January 1, 2000, and until July 1, 2002, the
36 toll-free telephone number required by Section 1368.02
37 shall be staffed by personnel equipped to respond to
38 inquiries regarding disability insurance that covers
39 hospital, medical, or surgical services as well as to
40 inquiries regarding health care service plans, and to make



1 referrals to the Department of Insurance if the staff of the
2 toll-free telephone number is unable to adequately assist
3 the consumer, until the department assumes jurisdiction
4 over disability insurers pursuant to Section 140250. The
5 department shall coordinate with the Insurance
6 Commissioner, health care service plans, and disability
7 insurers to provide notice to enrollees, policyholders, and
8 members of the public of the availability of a toll-free
9 telephone number that responds to inquiries involving
10 both health care service plans and disability insurers.

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

16 140258. It is the intent of the Legislature ~~that to~~
17 *conduct a study to evaluate the feasibility of transferring*
18 all personnel and funds dedicated to the regulation by the
19 Department of Insurance of disability insurers that cover
20 hospital, medical, or surgical expenses ~~be transferred to~~
21 the department on or before July 1, 2002, ~~unless a later~~
22 ~~enacted statute, that becomes operative on or before July~~
23 ~~1, 2002, deletes or extends the date on which jurisdiction~~
24 ~~shall be transferred from the Department of Insurance to~~
25 ~~the department.~~

26
27 CHAPTER 9. REGULATION OF PROVIDER GROUPS
28

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

38 SEC. 8. (a) The sum of three million dollars
39 (\$3,000,000) is appropriated from the State Corporations
40 Fund to the Department of Managed Health Care for

1 expenditure to cover the startup costs of the department
2 and new personnel and operating expenses necessary to
3 implement Division 108 (commencing with Section
4 140000) of the Health and Safety Code. The Department
5 of Managed Health Care may require health care service
6 plans to pay an additional assessment sufficient to pay for
7 these startup costs, new personnel, and expenses.

8 (b) This section shall become operative on March 1,
9 2000.

10 SEC. 9. No reimbursement is required by this act
11 pursuant to Section 6 of Article XIII B of the California
12 Constitution because the only costs that may be incurred
13 by a local agency or school district will be incurred
14 because this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition
18 of a crime within the meaning of Section 6 of Article
19 XIII B of the California Constitution.

