

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 529

Introduced by Senator Wyland

February 27, 2009

An act to ~~amend Section 1344 of~~ *add Section 1367.47 to the Health and Safety Code, and to add Section 10127.19 to the Insurance Code, relating to health care service plans coverage.*

LEGISLATIVE COUNSEL'S DIGEST

SB 529, as amended, Wyland. ~~Health care service plans. coverage: FDA approved treatments.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care *and makes a willful violation of the act a crime. Existing law authorizes the director of that department to adopt, amend, and rescind rules, form, and orders that are necessary to carry out the provisions of the act, as specified. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for certain conditions.*

~~This bill would make technical, nonsubstantive changes to that provision.~~

This bill would require a health care service plan contract or a health insurance policy that provides coverage of a health condition to also provide coverage for any federal Food and Drug Administration approved treatment of that condition, as specified.

Because a willful violation of this requirement by a health care service plan would be a crime, the bill would impose a state-mandated local program.

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: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 1367.47 is added to the Health and Safety
2 Code, to read:

3 1367.47. (a) A health care service plan contract that provides
4 coverage of a health condition shall also provide coverage for any
5 federal Food and Drug Administration approved treatment of that
6 condition that is prescribed by the enrollee’s health care provider.

7 (b) This section shall not be construed to require a health care
8 service plan contract to provide coverage for any treatment that
9 has been approved by the federal Food and Drug Administration
10 in the form of an investigational new drug application.

11 (c) For purposes of this section, “treatment” includes, but is
12 not limited to, drugs and medical devices.

13 SEC. 2. Section 10127.19 is added to the Insurance Code, to
14 read:

15 10127.19. (a) A health insurance policy that provides coverage
16 of a health condition shall also provide coverage for any federal
17 Food and Drug Administration approved treatment of that
18 condition that is prescribed by the insured’s health care provider.

19 (b) This section shall not be construed to require a health
20 insurance policy to provide coverage for any treatment that has
21 been approved by the federal Food and Drug Administration in
22 the form of an investigational new drug application.

23 (c) For purposes of this section, “treatment” includes, but is
24 not limited to, drugs and medical devices.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty

1 *for a crime or infraction, within the meaning of Section 17556 of*
2 *the Government Code, or changes the definition of a crime within*
3 *the meaning of Section 6 of Article XIII B of the California*
4 *Constitution.*

5 SECTION 1. ~~Section 1344 of the Health and Safety Code is~~
6 ~~amended to read:~~

7 1344. (a) ~~The director may from time to time adopt, amend,~~
8 ~~and rescind any rules, forms, and orders that are necessary to carry~~
9 ~~out the provisions of this chapter, including rules governing~~
10 ~~applications and reports, and defining any terms, whether or not~~
11 ~~used in this chapter, insofar as the definitions are not inconsistent~~
12 ~~with the provisions of this chapter. For the purpose of rules and~~
13 ~~forms, the director may classify persons and matters within the~~
14 ~~director's jurisdiction, and may prescribe different requirements~~
15 ~~for different classes. The director may waive any requirement of~~
16 ~~any rule or form in situations where in the director's discretion~~
17 ~~that requirement is not necessary in the public interest or for the~~
18 ~~protection of the public, subscribers, enrollees, or persons or plans~~
19 ~~subject to this chapter. The director may adopt rules consistent~~
20 ~~with federal regulations and statutes to regulate health care~~
21 ~~coverage supplementing Medicare.~~

22 (b) ~~The director may honor requests from interested parties for~~
23 ~~interpretive opinions.~~

24 (c) ~~No provision of this chapter imposing any liability applies~~
25 ~~to any act done or omitted in good faith in conformity with any~~
26 ~~rule, form, order, or written interpretive opinion of the director,~~
27 ~~or any opinion of the Attorney General, notwithstanding that the~~
28 ~~rule, form, order, or written interpretive opinion may later be~~
29 ~~amended or rescinded or be determined by judicial or other~~
30 ~~authority to be invalid for any reason.~~