

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 778**

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**Introduced by Assembly Member Atkins**

February 17, 2011

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*An act to add Sections 2553.7 and 2553.8 to the Business and Professions Code, relating to health care service plans.*

LEGISLATIVE COUNSEL'S DIGEST

AB 778, as amended, Atkins. Health care service ~~plans~~. *plans: vision care.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the 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 provides that health care service plans shall not be deemed to be engaged in the practice of a profession, and may employ, or contract with, any licensed health care professional to deliver professional services, and may directly own, and may directly operate through its professional employees or contracted licensed professionals, offices and subsidiary corporations. *Existing law provides that those professionals may not own or control offices or branch offices unless otherwise expressly authorized.*

*Existing law provides for the licensure and regulation of dispensing opticians by the Medical Board of California. Existing law provides that a violation of those provisions is a misdemeanor.*

~~This bill would declare the intent of the Legislature to enact legislation related to health care service plans under the Knox-Keene Act and the entities with which a health care service plan may transact business authorize a dispensing optician, an optical company, a manufacturer~~

or distributor of optical goods, or a nonoptometric corporation to own a health care service plan that provides vision care services, share profits with the health care service plan, contract for specified business services with the health care service plan, and jointly advertise vision care services with the health care service plan. The bill would prohibit those persons or entities from engaging in conduct designed to influence or interfere with the medical decisions of an optometrist, as specified. Because a violation of that provision 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. The Legislature hereby finds and declares the  
2 following:

3 (a) Health care service plans, including specialized health care  
4 service plans, are regulated by the Department of Managed Health  
5 Care.

6 (b) To ensure that quality care and coverage are provided to  
7 enrollees, a health care service plan, including a specialized health  
8 care service plan, is required to do all of the following:

9 (1) Establish a department-approved quality assurance program  
10 to ensure that enrollees are continuously provided the appropriate  
11 level of services covered by the plan.

12 (2) Ensure that a separation of fiscal and administrative  
13 management from medical services exists within the plan.

14 (3) Periodically submit information to the department to  
15 demonstrate delivery of quality care, accessibility of services to  
16 enrollees, and prompt resolution of complaints.

17 (4) Establish procedures meeting specified requirements for  
18 reviewing the utilization of services and facilities.

19 (5) Participate in comprehensive medical and financial audits  
20 conducted by the department.

1 (c) Existing law prohibits an optometrist from engaging in  
2 certain business relationships with a registered optical dispenser.

3 (d) Existing law allows a health care service plan to hire and  
4 contract with licensed professionals and to engage in a business  
5 relationship with any entity. However, existing law is unclear  
6 about the relationships between health care service plans that  
7 provide vision services and optical companies.

8 (e) Providing statutory clarity regarding permissible business  
9 relationships between a health care service plan providing vision  
10 services and optical companies will provide certainty and allow  
11 regulating entities to ensure that plans are engaged in appropriate  
12 business relationships.

13 SEC. 2. Section 2553.7 is added to the Business and Professions  
14 Code, to read:

15 2553.7. Notwithstanding any other provision of law, a  
16 dispensing optician, an optical company, a manufacturer or  
17 distributor of optical goods, or a nonoptometric corporation may  
18 do all of the following:

19 (a) Own a health care service plan that provides vision care  
20 services and share its profits.

21 (b) Contract for business services with, lease office space or  
22 equipment to or from, or share office space with, a health care  
23 service plan that provides vision care services.

24 (c) Jointly advertise vision care services with a health care  
25 service plan that provides vision care services.

26 SEC. 3. Section 2553.8 is added to the Business and Professions  
27 Code, to read:

28 2553.8. (a) A registered dispensing optician, an optical  
29 company, a manufacturer or distributor of optical goods, or a  
30 nonoptometric corporation shall not engage in conduct designed  
31 to influence or interfere with the medical decisions of an  
32 optometrist employed by, or who has contracted with, a specialized  
33 vision care service plan for fiscal or administrative reasons.

34 (b) Pursuant to subdivision (g) of Section 1367 of the Health  
35 and Safety Code, the medical decisions of an optometrist who is  
36 employed by, or who has contracted with, a specialized vision care  
37 service plan shall be unhindered by fiscal and administrative  
38 management.

39 SEC. 4. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 *the only costs that may be incurred by a local agency or school*  
2 *district will be incurred because this act creates a new crime or*  
3 *infraction, eliminates a crime or infraction, or changes the penalty*  
4 *for a crime or infraction, within the meaning of Section 17556 of*  
5 *the Government Code, or changes the definition of a crime within*  
6 *the meaning of Section 6 of Article XIII B of the California*  
7 *Constitution.*

8 ~~SECTION 1.—It is the intent of the Legislature to enact~~  
9 ~~legislation to clarify existing law with regard to health care service~~  
10 ~~plans that are regulated under the Knox-Keene Health Care Service~~  
11 ~~Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)~~  
12 ~~of Division 2 of the Health and Safety Code) and the entities with~~  
13 ~~which a health care service plan may transact business.~~