

AMENDED IN ASSEMBLY MAY 14, 2013

AMENDED IN ASSEMBLY MAY 7, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 299**

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**Introduced by Assembly Member Holden  
(Coauthor: Assembly Member Bloom)**

February 12, 2013

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An act to add Section 1367.245 to the Health and Safety Code, and to add Section 10123.193 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as amended, Holden. Prescription drug benefits.

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 that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires every health care service plan that provides prescription drug benefits that maintains one or more drug formularies to provide to members of the public, upon request, a copy of the most current list of prescription drugs on the formulary.

This bill would ~~require~~ *prohibit* a health care service plan or health insurer that provides prescription drug benefits ~~to authorize from requiring~~ an enrollee or insured to ~~receive those benefits, which may include a 90-day supply of covered drugs,~~ *use mail order pharmacy services for covered prescription drugs that are available at any of its*

~~an in-network pharmacies that are retail pharmacies~~ *retail pharmacy*, and would prohibit the ~~plan or insurer~~ *enrollee’s or insured’s* exercise of choice with regard to obtaining those drugs from an ~~in-network mail order pharmacy or an in-network retail pharmacy~~ from requiring any ~~additional authorizations~~ *authorization* by the plan or insurer or the prescriber ~~that are not required for the enrollee or insured to receive those benefits at a mail order pharmacy.~~ The bill would specify that these requirements would not apply to drugs that are not available in retail pharmacies ~~because of limited distribution by the manufacturer due to a manufacturer’s instructions or restrictions.~~ Because a willful violation of these requirements 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: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 1367.245 is added to the Health and  
2 Safety Code, to read:  
3 1367.245. (a)—A health care service plan that provides  
4 prescription drug benefits shall ~~authorize~~ *not require* an enrollee  
5 ~~to receive those benefits, which may include a 90-day supply of~~  
6 ~~covered drugs, at any of its~~ *utilize in-network mail order pharmacy*  
7 *services for covered prescription drugs that are available in an*  
8 ~~in-network pharmacies that are retail pharmacies, and~~ *pharmacy.*  
9 *The enrollee’s exercise of choice with regard to obtaining covered*  
10 *prescription drugs from an in-network mail order pharmacy or*  
11 *an in-network retail pharmacy shall not require any—additional*  
12 ~~authorizations~~ *authorization* by the plan or the prescriber ~~that are~~  
13 ~~not required for the enrollee to receive those benefits at a mail~~  
14 ~~order pharmacy.~~ This subdivision shall not apply to drugs that are  
15 not available in retail pharmacies ~~because of limited distribution~~  
16 ~~by the manufacturer~~ *due to a manufacturer’s instructions or*  
17 *restrictions.*

1 ~~(b) A pharmacist who dispenses a 90-day supply of covered~~  
2 ~~drugs shall comply with Section 4064.5 of the Business and~~  
3 ~~Professions Code.~~

4 SEC. 2. Section 10123.193 is added to the Insurance Code, to  
5 read:

6 10123.193. ~~(a) A health insurer that provides prescription drug~~  
7 ~~benefits shall authorize not require an insured to receive those~~  
8 ~~benefits, which may include a 90-day supply of covered drugs, at~~  
9 ~~any of its utilize in-network mail order pharmacy services for~~  
10 ~~covered prescription drugs that are available in an in-network~~  
11 ~~pharmacies that are retail pharmacies, and pharmacy. The insured's~~  
12 ~~exercise of choice with regard to obtaining covered prescription~~  
13 ~~drugs from an in-network mail order pharmacy or an in-network~~  
14 ~~retail pharmacy shall not require any additional authorizations~~  
15 ~~authorization by the insurer or the prescriber that are not required~~  
16 ~~for the insured to receive those benefits at a mail order pharmacy.~~  
17 This subdivision shall not apply to drugs that are not available in  
18 retail pharmacies because of limited distribution by the  
19 manufacturer due to a manufacturer's instructions or restrictions.

20 ~~(b) A pharmacist who dispenses a 90-day supply of covered~~  
21 ~~drugs shall comply with Section 4064.5 of the Business and~~  
22 ~~Professions Code.~~

23 SEC. 3. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the penalty  
28 for a crime or infraction, within the meaning of Section 17556 of  
29 the Government Code, or changes the definition of a crime within  
30 the meaning of Section 6 of Article XIII B of the California  
31 Constitution.