

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE APRIL 3, 2013

SENATE BILL

No. 494

**Introduced by Senator Monning
(Principal coauthor: Senator Hernandez)**

February 21, 2013

An act to add Section 1375.9 to the Health and Safety Code, to add Section 10133.4 to the Insurance Code, and to amend Sections 14087.48, 14088, and 14254 of, and to add Section 14088.1 to, the Welfare and Institutions Code, relating to health care providers.

LEGISLATIVE COUNSEL'S DIGEST

SB 494, as amended, Monning. Health care providers.

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 also provides for the regulation of health insurers by the Department of Insurance.

This bill would ~~authorize, if the assignment of plan enrollees or insureds to a primary care physician is authorized by certain provisions of law or contract, the assignment of up to 2,000 enrollees or insureds to each full-time equivalent primary care physician and would~~ authorize the assignment of an additional 1,750 enrollees or insureds, as specified, to a primary care physician if that physician supervises one or more nonphysician medical practitioners. By imposing new requirements on health care service plans, the willful violation of which would be a crime, this bill would impose a state-mandated local program.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services. Prior

to a Medi-Cal managed care plan commencing operations, existing law requires the department to evaluate, among other things, the extent to which the plan has an adequate provider network, including the location, office hours, and language capabilities of the plan’s primary care physicians. Existing law defines primary care provider for these purposes as an internist, general practitioner, ~~obstetrician/gynecologist~~, *obstetrician-gynecologist*, pediatrician, family practice physician, or, as specified, types of clinics and defines primary care physician as a physician who has the responsibility, among other duties, for providing initial and primary care to patients.

This bill would require that the department evaluate the location, office hours, and language capabilities of a plan’s primary care practitioners instead of the plan’s primary care physicians. The bill would add nonphysician medical practitioners to the definition of a primary care provider. The bill would define nonphysician medical practitioner as a physician assistant performing services under physician supervision, as specified, or as a nurse practitioner performing services in collaboration with a physician, as specified. The bill would authorize, if the assignment of beneficiaries enrolled in any type of Medi-Cal managed care plan to a primary care physician is authorized by specified provisions of law or contract, the assignment of up to 2,000 beneficiaries to each full-time equivalent primary care physician. The bill would authorize the assignment of an additional 1,750 beneficiaries, as specified, to a primary care physician when that physician supervises one or more nonphysician medical practitioners. The bill would make conforming changes.

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 1375.9 is added to the Health and Safety
- 2 Code, to read:
- 3 1375.9. (a) ~~If the assignment of plan enrollees to a primary~~
- 4 ~~care physician is authorized by this chapter, or any regulation or~~

1 ~~contract promulgated thereunder, each full-time equivalent primary~~
2 ~~care physician may be assigned up to 2,000 enrollees.~~
3 Notwithstanding any other state law or regulation, if a primary
4 care physician supervises one or more nonphysician medical
5 practitioners, the physician may be assigned ~~up to~~ *an average of*
6 an additional 1,750 enrollees for each full-time equivalent
7 nonphysician medical practitioner supervised by that ~~physician.~~
8 *physician, in addition to the number of enrollees assigned to that*
9 *physician pursuant to current law and approved by the department.*

10 (b) This section shall not require a primary care physician to
11 accept an assignment of enrollees that would be contrary to
12 paragraph (2) of subdivision (b) of Section 1375.7.

13 (c) *Nothing in this section shall be interpreted to modify*
14 *subdivision (b) of Section 3516 of the Business and Professions*
15 *Code.*

16 SEC. 2. Section 10133.4 is added to the Insurance Code, to
17 read:

18 10133.4. (a) If the assignment of insureds to a primary care
19 physician is authorized by this part, or any regulation, contract, or
20 policy promulgated thereunder, each full-time equivalent primary
21 care physician may be assigned up to 2,000 insureds.
22 Notwithstanding any other state law or regulation, if a primary
23 care physician supervises one or more nonphysician medical
24 practitioners, the physician may be assigned up to an additional
25 1,750 insureds for each full-time equivalent nonphysician medical
26 practitioner supervised by that physician.

27 (b) This section shall not require a primary care provider to
28 accept the assignment of a number of insureds that would exceed
29 standards of good health care as provided in Section 10133.5.

30 (c) *Nothing in this section shall be interpreted to modify*
31 *subdivision (b) of Section 3516 of the Business and Professions*
32 *Code.*

33 SEC. 3. Section 14087.48 of the Welfare and Institutions Code
34 is amended to read:

35 14087.48. (a) For purposes of this section, “Medi-Cal managed
36 care plan” means any individual, organization, or entity that enters
37 into a contract with the department pursuant to Article 2.7
38 (commencing with Section 14087.3), Article 2.8 (commencing
39 with Section 14087.5), Article 2.81 (commencing with Section
40 14087.96), Article 2.9 (commencing with Section 14088), or

1 Article 2.91 (commencing with Section 14089), or pursuant to
2 Article 1 (commencing with Section 14200), or Article 7
3 (commencing with Section 14490) of Chapter 8.

4 (b) Before a Medi-Cal managed care plan commences operations
5 based upon an action of the director that expands the geographic
6 area of Medi-Cal managed care, the department shall perform an
7 evaluation to determine the readiness of any affected Medi-Cal
8 managed care plan to commence operations. The evaluation shall
9 include, at a minimum, all of the following:

10 (1) The extent to which the Medi-Cal managed care plan
11 demonstrates the ability to provide reliable service utilization and
12 cost data, including, but not limited to, quarterly financial reports,
13 audited annual reports, utilization reports of medical services, and
14 encounter data.

15 (2) The extent to which the Medi-Cal managed care plan has
16 an adequate provider network, including, but not limited to, the
17 location, office hours, and language capabilities of primary care
18 practitioners, specialists, pharmacies, and hospitals, that the types
19 of specialists in the provider network are based on the population
20 makeup and particular geographic needs, and that whether
21 requirements will be met for availability of services and travel
22 distance standards, as set forth in Sections 53852 and 53885,
23 respectively, of Title 22 of the California Code of Regulations.

24 (3) The extent to which the Medi-Cal managed care plan has
25 developed procedures for the monitoring and improvement of
26 quality of care, including, but not limited to, procedures for
27 retrospective reviews which include patterns of practice reviews
28 and drug prescribing practice reviews, utilization management
29 mechanisms to detect both under- and over-utilization of health
30 care services, and procedures that specify timeframes for medical
31 authorization.

32 (4) The extent to which the Medi-Cal managed care plan has
33 demonstrated the ability to meet accessibility standards in
34 accordance with Section 1300.67.2 of Title 28 of the California
35 Code of Regulations, including, but not limited to, procedures for
36 appointments, waiting times, telephone procedures, after hours
37 calls, urgent care, and arrangement for the provision of unusual
38 specialty services.

1 (5) The extent to which the Medi-Cal managed care plan has
2 met all standards and guidelines established by the department that
3 demonstrate readiness to provide services to enrollees.

4 (6) The extent to which the Medi-Cal managed care plan has
5 submitted all required contract deliverables to the department,
6 including, but not limited to, quality improvement systems,
7 utilization management, access and availability, member services,
8 member grievance systems, and ~~enrollment~~ *enrollments* and
9 disenrollments.

10 (7) The extent to which the Medi-Cal managed care plan's
11 Evidence of Coverage, Member Services Guide, or both, conforms
12 to federal and state statutes and regulations, is accurate, and is
13 easily understood.

14 (8) The extent to which the Medi-Cal managed care plan's
15 primary care and facility sites have been reviewed and evaluated
16 by the department.

17 SEC. 4. Section 14088 of the Welfare and Institutions Code is
18 amended to read:

19 14088. (a) It is the purpose of this article to ensure that the
20 Medi-Cal program shall be operated in the most cost-effective and
21 efficient manner possible with the optimum number of Medi-Cal
22 providers and shall ~~assure~~ *ensure* quality of care and known access
23 to services.

24 (b) For the purposes of this article, the following definitions
25 shall apply:

26 (1) "Primary care provider" means either of the following:

27 (A) Any internist, general practitioner, ~~obstetrician/gynecologist,~~
28 *obstetrician-gynecologist*, pediatrician, family practice physician,
29 nonphysician medical practitioner, or any primary care clinic, rural
30 health clinic, community clinic or hospital outpatient clinic
31 currently enrolled in the Medi-Cal program, which agrees to
32 provide case management to Medi-Cal beneficiaries.

33 (B) A county or other political subdivision that employs,
34 operates, or contracts with, any of the primary care providers listed
35 in subparagraph (A), and that agrees to use that primary care
36 provider for the purposes of contracting under this article.

37 (2) "Primary care case management" means responsibility for
38 the provision of referral, consultation, ordering of therapy,
39 admission to hospitals, followup care, and prepayment approval
40 of referred services.

1 (3) “Designation form” or “form” means a form supplied by
 2 the department to be executed by a Medi-Cal beneficiary and a
 3 primary care provider or other entity eligible pursuant to this article
 4 who has entered into a contract with the department pursuant to
 5 this article, setting forth the beneficiary’s choice of contractor and
 6 an agreement to be limited by the case management decisions of
 7 that contractor and the contractor’s agreement to be responsible
 8 for that beneficiary’s case management and medical care, as
 9 specified in this article.

10 (4) “Emergency services” means health care services rendered
 11 by an eligible Medi-Cal provider to a Medi-Cal beneficiary for
 12 those health services required for alleviation of severe pain or
 13 immediate diagnosis and treatment of unforeseen medical
 14 conditions which if not immediately diagnosed and treated could
 15 lead to disability or death.

16 (5) “Modified primary care case management” means primary
 17 care case management wherein capitated services are limited to
 18 primary care practitioner office visits only.

19 (6) “Service area” means an area designated by either a single
 20 federal Postal ZIP Code or by two or more Postal ZIP Codes that
 21 are contiguous.

22 (c) For purposes of this part, “nonphysician medical practitioner”
 23 means a physician assistant performing services under physician
 24 supervision in compliance with Chapter 7.7 (commencing with
 25 Section 3500) of Division 2 of the Business and Professions Code
 26 or a nurse practitioner performing services in collaboration with
 27 a physician pursuant to Chapter 6 (commencing with Section 2700)
 28 of Division 2 of the Business and Professions Code.

29 SEC. 5. Section 14088.1 is added to the Welfare and
 30 Institutions Code, to read:

31 14088.1. If the assignment of beneficiaries enrolled in any type
 32 of Medi-Cal managed care plan to a primary care physician is
 33 authorized or required by a provision of ~~Part 3 (commencing with~~
 34 ~~Section 11000) of Division 9~~ *this part*, or any regulation, contract,
 35 or policy promulgated thereunder, each full-time equivalent
 36 primary care physician may be assigned up to 2,000 beneficiaries.
 37 Notwithstanding any other state law or regulation, if a primary
 38 care physician in that plan supervises one or more nonphysician
 39 medical practitioners, the physician may be assigned up to an

1 additional 1,750 beneficiaries for each full-time equivalent
2 nonphysician medical practitioner supervised by that physician.

3 *Nothing in this section shall be interpreted to modify subdivision*
4 *(b) of Section 3516 of the Business and Professions Code.*

5 SEC. 6. Section 14254 of the Welfare and Institutions Code is
6 amended to read:

7 14254. “Primary care practitioner” is a physician or
8 nonphysician medical practitioner who has the responsibility for
9 providing initial and primary care to patients, for maintaining the
10 continuity of patient care, and for initiating referral for specialist
11 care. A primary care physician shall be either a physician who has
12 limited his *or her* practice of medicine to general practice or who
13 is a board-certified or board-eligible internist, pediatrician,
14 obstetrician-gynecologist, or family practitioner.

15 SEC. 7. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.