

AMENDED IN SENATE MARCH 2, 1999

**SENATE BILL**

**No. 260**

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**Introduced by Senator Speier**

January 28, 1999

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An act to *amend Section 1367.10 of, to add Section 1367.13 to, Sections 1367.13 and 1367.14 to, and to repeal Section 1348.6 of, and to repeal and add Section 1367.10 of,* the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 260, as amended, Speier. Health care service plans: compensation arrangements.

Existing law provides for the licensure and regulation of health care service plans by the Department of Corporations and provides that a willful violation of these provisions is subject to criminal sanction.

Existing law requires every health care service plan to include within its disclosure form and evidence of coverage a designated statement describing how participation in the plan may affect the choice of physician, hospital, or other health care providers, the basic method of reimbursement, and whether financial bonuses or incentives are used. Existing law requires a plan, medical group, independent practice association, or participating health care provider that uses or receives financial bonuses or any other incentives to provide a designated written summary to any person who requests it. Existing law also prohibits a contract between a health care service plan and a physician, physician group, or other licensed health care practitioner from containing any

incentive plan that includes specific payment made directly to a physician, physician group, or other licensed health care practitioner as an inducement to deny, reduce, limit, or delay specific, medically necessary, and appropriate services provided with respect to a specific enrollee or groups of enrollees with similar medical conditions.

This bill would repeal ~~these existing provisions. The bill, instead,~~ relating to financial bonuses and would instead prohibit a health care service plan, medical group, or independent practice association from utilizing compensation arrangements that include financial bonuses or penalties related to delivery of health care services.

This bill would also prohibit a health care service plan from establishing a financial arrangement with any group of 30 or fewer providers that utilizes capitation payments for professional services that include the cost of referrals for the group’s patients.

By imposing these requirements on health care service plans, this bill would change the definition of a crime, thereby imposing 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. The Legislature finds and declares all of  
2 the following:

3 (a) Physicians and other health care professionals are  
4 motivated to provide services by many incentives,  
5 including compensation arrangements.

6 (b) Some providers may participate or be forced to  
7 participate in bonuses or “withhold incentive  
8 arrangements” that are weighed excessively towards



1 financial considerations and could affect clinical  
2 decisions.

3 (c) According to a New England Journal of Medicine  
4 article and related survey, nearly 40 percent of primary  
5 care physicians affiliated with managed care  
6 organizations in urban California were involved in some  
7 type of financial incentive arrangement with half of these  
8 physicians indicating that these incentives depended on  
9 their restraint in the use of referrals or hospital services.

10 (d) The survey findings indicate that bonuses based on  
11 limitation of referrals and on productivity heighten a  
12 physician's anxiety about their performance and their  
13 perception that care may be compromised.

14 (e) The Texas Attorney General has recently sued six  
15 health maintenance organizations (HMOs) indicating  
16 that physician incentives place physicians in a conflict of  
17 interest between providing all medically necessary care  
18 or withholding or reducing the amount of care to avoid  
19 financial penalties and receive their bonus.

20 (f) The Legislature has clearly established that the  
21 provision of health care services by health care providers  
22 should not be unduly influenced by financial  
23 considerations.

24 (g) Therefore, the Legislature declares that the use of  
25 financial incentives related to the use of referrals or  
26 hospital use are inconsistent with the good practice of  
27 medicine and that the elimination of these incentives  
28 would ensure greater confidence among the public and  
29 health care decisions would be made unfettered by  
30 financial considerations.

31 SEC. 2. Section 1348.6 of the Health and Safety Code  
32 is repealed.

33 ~~SEC. 3. Section 1367.10 of the Health and Safety Code~~  
34 ~~is repealed.~~

35 ~~SEC. 4. Section 1367.10~~

36 *SEC. 3. Section 1367.10 of the Health and Safety Code*  
37 *is amended to read:*

38 1367.10. (a) Every health care service plan shall  
39 include within its disclosure form and within its evidence  
40 of coverage a statement clearly describing how



1 participation in the plan may affect the choice of  
2 physician, hospital, or other health care providers, the  
3 basic method of reimbursement, including the scope and  
4 general methods of payment made to its contracting  
5 providers of health care services, ~~and whether financial~~  
6 ~~bonuses or any other incentives are used. The disclosure~~  
7 ~~form and evidence of coverage shall indicate that if an~~  
8 ~~enrollee wishes to know more about these issues, the~~  
9 ~~enrollee may request additional information from the~~  
10 ~~health care service plan, the enrollee's provider, or the~~  
11 ~~provider's medical group or independent practice~~  
12 ~~association regarding the information required pursuant~~  
13 ~~to subdivision (b).~~

14 ~~(b) If a plan, medical group, independent practice~~  
15 ~~association, or participating health care provider uses or~~  
16 ~~receives financial bonuses or any other incentives, the~~  
17 ~~plan, medical group, independent practice association, or~~  
18 ~~health care provider shall provide a written summary to~~  
19 ~~any person who requests it that includes all of the~~  
20 ~~following:~~

21 ~~(1) A general description of the bonus and any other~~  
22 ~~incentive arrangements used in its compensation~~  
23 ~~agreements. Nothing in this section shall be construed to~~  
24 ~~require disclosure of trade secrets or commercial or~~  
25 ~~financial information that is privileged or confidential,~~  
26 ~~such as payment rates, as determined by the~~  
27 ~~commissioner, pursuant to state law.~~

28 ~~(2) A description regarding whether, and in what~~  
29 ~~manner, the bonuses and any other incentives are related~~  
30 ~~to a provider's use of referral services.~~

31 ~~(c) The statements and written information provided~~  
32 ~~pursuant to subdivisions (a) and (b) shall be~~  
33 ~~communicated in clear and simple language that enables~~  
34 ~~consumers to evaluate and compare health care service~~  
35 ~~plans.~~

36 ~~(d)~~

37 ~~(b) The plan shall clearly inform prospective enrollees~~  
38 ~~that participation in that plan will affect the person's~~  
39 ~~choice of provider by placing the following statement in~~  
40 ~~a conspicuous place on all material required to be given~~



1 to prospective enrollees including promotional and  
2 descriptive material, disclosure forms, and certificates  
3 and evidences of coverage:

4  
5  
6  
7  
8  
9

PLEASE READ THE FOLLOWING INFORMATION  
SO YOU WILL KNOW FROM WHOM OR WHAT  
GROUP OF PROVIDERS HEALTH CARE MAY BE  
OBTAINED

10 It is not the intent of this section to require that the  
11 names of individual health care providers be enumerated  
12 to prospective enrollees.

13 If the health care service plan provides a list of  
14 providers to patients or contracting providers, the plan  
15 shall include within the provider listing a notification that  
16 enrollees may contact the plan in order to obtain a list of  
17 the facilities with which the health care service plan is  
18 contracting for subacute care and/or transitional  
19 inpatient care.

20 SEC. 4. Section 1367.13 is added to the Health and  
21 Safety Code, to read:

22 ~~1367.10.~~

23 1367.13. No health care service plan, medical group,  
24 or independent practice association may utilize  
25 compensation arrangements that include financial  
26 bonuses or penalties related to the delivery of health care  
27 services.

28 SEC. 5. Section ~~1367.13~~ 1367.14 is added to the Health  
29 and Safety Code, to read:

30 ~~1367.13.~~

31 1367.14. No health care service plan shall establish a  
32 financial arrangement with any group of thirty or fewer  
33 providers, that utilizes capitation payments for  
34 professional services that includes the cost of referrals for  
35 the group's patients.

36 SEC. 6. No reimbursement is required by this act  
37 pursuant to Section 6 of Article XIII B of the California  
38 Constitution because the only costs that may be incurred  
39 by a local agency or school district will be incurred  
40 because this act creates a new crime or infraction,



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

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