

**On February 19, 2010, the Assembly Committee on Health requested CHBRP to analyze the following submitted text for AB 1826. Below is the bill as introduced. Following is the text of the bill as will be amended as indicated by the Bill Author.**

**ASSEMBLY BILL No. 1826**

**Introduced by Assembly Member Huffman**

(Coauthor: Senator Price)

February 11, 2010

An act to add Section 1367.225 to the Health and Safety Code, and to add Section 10123.197 to the Insurance Code, relating to health care coverage.

AB 1826, as introduced, Huffman. Health care coverage: prescriptions.

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's requirements a crime. Existing law provides for the regulation of health insurers by the Department of Insurance.

Existing law requires a health care service plan contract or a health insurance policy that covers prescription drug benefits to provide specified coverage to subscribers, enrollees, and insureds.

This bill would prohibit a health care service plan or a health insurer covering prescription drug benefits from requiring a subscriber, enrollee, or insured who has been prescribed a product for the treatment of pain by his or her health care provider to use a different specified product prior to authorizing coverage of the product prescribed by the health care provider.

Because a willful violation of the bill's requirements with respect to health care service plans 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:*

SECTION 1. Section 1367.225 is added to the Health and Safety Code, to read:

1367.225. (a) No health care service plan that covers prescription drug benefits shall require a subscriber or enrollee who has been prescribed a product for the treatment of pain by his or her health care provider to use an alternative prescription or an over-the-counter product prior to authorizing coverage of the product prescribed by the health care provider.

(b) This section does not prohibit a health care service plan from charging a subscriber or enrollee a copayment or a deductible for

prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the director and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

SEC. 2. Section 10123.197 is added to the Insurance Code, to read:

10123.197. (a) No health insurer that covers prescription drug benefits shall require an insured who has been prescribed a product for the treatment of pain by his or her health care provider to use an alternative prescription or an over-the-counter product prior to authorizing coverage of the product prescribed by the health care provider.

(b) This section does not prohibit a health insurance policy from charging an insured a copayment or a deductible for prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the insured pursuant to the disclosure provisions of Section 10603.

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

## **AB 1826 – Amended Text, submitted to CHBRP on February 19, 2010.**

SECTION 1. Section 1367.225 is added to the Health and Safety Code, to read:

1367.225. (a) ~~No Every~~ health care service plan that covers prescription drug benefits shall ~~require~~ *provide coverage for a subscriber or enrollee who has been* ~~drug that has been~~ prescribed a ~~product~~ *by a participating licensed health care professional for* the treatment of pain ~~by his or her health care provider~~ *without first requiring the subscriber or enrollee to use an alternative prescription or an over-the-counter product prior to authorizing coverage of the product prescribed by the health care provider.*

(b) This section does not prohibit a health care service plan from charging a subscriber or enrollee a copayment or a deductible for prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the director and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

*(c) This section shall not apply to a policy of health insurance purchased by the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (commencing with Section 22750) of Division 5*

*of Title 2 of the Government Code.*

SEC. 2. Section 10123.197 is added to the Insurance Code, to read:

10123.197. (a) ~~No~~ Every health insurer that covers prescription drug benefits shall ~~require~~ provide coverage for a drug that ~~an insured who~~ has been prescribed ~~a product~~ by a participating licensed health care professional for the treatment of pain ~~by his or her health care provider~~ without first requiring the insured to use an alternative prescription or an over-the-counter product ~~prior to authorizing coverage of the product prescribed by the health care provider.~~

(b) This section does not prohibit a health insurance policy from charging an insured a copayment or a deductible for prescription drug benefits or from setting forth, by contract, limitations on maximum coverage of prescription drug benefits, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the insured pursuant to the disclosure provisions of Section 10603.

*(c) This section shall not apply to a policy of health insurance purchased by the Board of Administration of the Public Employees' Retirement System pursuant to the Public Employees' Medical and Hospital Care Act (commencing with Section 22750) of Division 5 of Title 2 of the Government Code.*

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