

Assembly Bill No. 1996

CHAPTER 795

An act to add and repeal Chapter 7 (commencing with Section 127660) of Part 2 of Division 107 of the Health and Safety Code, relating to health care.

[Approved by Governor September 22, 2002. Filed with Secretary of State September 22, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1996, Thomson. University of California: analysis of legislation mandating health care benefits and services.

Existing law regulates the provision of health care benefits by a health care service plan and by a health insurer.

This bill would request the University of California to assess legislation proposing mandated health care benefits to be provided by health care service plans and health insurers, and to prepare a written analysis in accordance with specified criteria.

This bill would request the University of California to develop and implement conflict-of-interest provisions that would prohibit a person from participating in any analysis in which he or she knows or has reason to know he or she has a material financial interest.

This bill would provide funding for the University of California's work from fees imposed upon health care service plans and health insurers, which would not exceed a total of \$2,000,000. The fees would be deposited in the Health Care Benefits Fund, which would be created by the bill. Initial startup funding would be loaned to the Health Care Benefits Fund from the Managed Care Fund and the Insurance Fund.

This bill would request the University of California to submit a report to the Governor and the Legislature by January 1, 2006, on the implementation of the bill's provisions.

The bill's provisions would remain in effect until January 1, 2007.

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

SECTION 1. The intent of the Legislature in enacting this act is:

(a) To promote the public interest to assure that all residents of this state have reasonable access to quality health care.

(b) To analyze the clinical efficacy and cost-effectiveness of legislative proposals for expanded health care benefits using clear criteria for evaluating each proposal.



(c) To facilitate the provision of quality, cost-effective health services by providing current, accurate data and information to the Governor and the Legislature for the purpose of determining health-related programs and policies in connection with proposed legislation.

(d) That the University of California publish a written analysis of the clinical efficacy and cost-effectiveness of each legislative proposal, including supporting expert data.

(e) The Legislature finds that there is an increasing number of proposals that mandate that certain health benefits be provided by health care service plans and health insurers as components of individual and group contracts. The Legislature further finds that many of these would potentially result in better health outcomes that would be in the public interest. However, the Legislature also recognizes that mandated benefits may contribute to the cost and affordability of health insurance premiums. Therefore, it is the intent of the Legislature that the University of California conduct a systematic review of proposed mandated or mandatorily offered health benefit mandates. This review will assist the Legislature in determining whether mandating a particular coverage is in the public interest.

SEC. 2. Chapter 7 (commencing with Section 127660) is added to Part 2 of Division 107 of the Health and Safety Code, to read:

CHAPTER 7. UNIVERSITY OF CALIFORNIA ASSESSMENT ON
LEGISLATION PROPOSING MANDATED BENEFITS OR SERVICES

127660. (a) The Legislature hereby requests the University of California to assess legislation proposing a mandated benefit or service, as defined in subdivision (d), and to prepare a written analysis with relevant data on the following:

(1) Public health impacts, including, but not limited to, all of the following:

(A) The impact on the health of the community, including the reduction of communicable disease and the benefits of prevention such as those provided by childhood immunizations and prenatal care.

(B) The impact on the health of the community, including diseases and conditions where gender and racial disparities in outcomes are established in peer-reviewed scientific and medical literature.

(C) The extent to which the proposed service reduces premature death and the economic loss associated with disease.

(2) Medical impacts, including, but not limited to, all of the following:

(A) The extent to which the benefit or service is generally recognized by the medical community as being effective in the screening, diagnosis,



or treatment of a condition or disease, as demonstrated by a review of scientific and peer reviewed medical literature.

(B) The extent to which the benefit or service is generally available and utilized by treating physicians.

(C) The contribution of the benefit or service to the health status of the population, including the results of any research demonstrating the efficacy of the benefit or service compared to alternatives, including not providing the benefit or service.

(D) The extent to which the proposed services do not diminish or eliminate access to currently available health care services.

(3) Financial impacts, including, but not limited to, all of the following:

(A) The extent to which the coverage will increase or decrease the benefit or cost of the service.

(B) The extent to which the coverage will increase the utilization of the benefit or service, or will be a substitute for, or affect the cost of, alternative services.

(C) The extent to which the coverage will increase or decrease the administrative expenses of health care service plans and health insurers and the premium and expenses of subscribers, enrollees, and policyholders.

(D) The impact of this coverage on the total cost of health care.

(E) The potential cost or savings to the private sector, including the impact on small employers as defined in paragraph (1) of subdivision (l) of Section 1357, the Public Employees' Retirement System, other retirement systems funded by the state or by a local government, individuals purchasing individual health insurance, and publicly funded state health insurance programs, including the Medi-Cal program and the Healthy Families Program.

(F) The extent to which costs resulting from lack of coverage are shifted to other payers, including both public and private entities.

(G) The extent to which the proposed benefit or service does not diminish or eliminate access to currently available health care services.

(H) The extent to which the benefit or service is generally utilized by a significant portion of the population.

(I) The extent to which health care coverage for the benefit or service is already generally available.

(J) The level of public demand for health care coverage for the benefit or service, including the level of interest of collective bargaining agents in negotiating privately for inclusion of this coverage in group contracts, and the extent to which the mandated benefit or service is covered by self-funded employer groups.



(K) In assessing and preparing a written analysis of the financial impact of a mandated benefit pursuant to this paragraph, the Legislature requests the University of California to use a certified actuary or other person with relevant knowledge and expertise to determine the financial impact.

(b) The Legislature requests that the University of California provide every analysis to the appropriate policy and fiscal committees of the Legislature not later than 60 days after receiving a request made pursuant to Section 127661. In addition, the Legislature requests that the university post every analysis on the Internet and make every analysis available to the public upon request.

(c) The Legislature requests that the University of California first analyze any of the following benefit mandates proposed in the 2001–02 Legislative Session, if introduced or proposed to be introduced at the start of the 2003–04 Legislative Session, and a request for an analysis is made by the author or the relevant policy committee chair:

- (1) Bone marrow testing for prospective donors.
- (2) Infertility treatment.
- (3) Specified ovarian cancer screening and diagnostic tests.
- (4) Medically necessary prescription drugs.
- (5) Wigs for patients who have undergone chemotherapy.
- (6) Bone mineral density testing for osteoporosis.
- (7) Hearing aids.
- (8) Hyperbaric oxygen therapy for an acute or chronic brain condition.
- (9) Substance-related disorders.
- (10) Genetic disease tests for certain populations.

(d) As used in this section, “mandated benefit or service” means a proposed statute that requires a health care service plan or a health insurer, or both, to do any of the following:

- (1) Permit a person insured or covered under the policy or contract to obtain health care treatment or services from a particular type of health care provider.
- (2) Offer or provide coverage for the screening, diagnosis, or treatment of a particular disease or condition.
- (3) Offer or provide coverage of a particular type of health care treatment or service, or of medical equipment, medical supplies, or drugs used in connection with a health care treatment or service.

127661. A request pursuant to this chapter may be made by an appropriate policy or fiscal committee chairperson, the Speaker of the Assembly, or the President pro Tempore of the Senate, who shall forward the introduced bill to the University of California for assessment.



127662. (a) In order to effectively support the University of California and its work in implementing this chapter, there is hereby established in the State Treasury, the Health Care Benefits Fund. The university's work in providing the bill analyses shall be supported from the fund.

(b) For fiscal years 2002–03 to 2005–06, inclusive, each health care service plan, except a specialized health care service plan, and each health insurer, as defined in Section 106 of the Insurance Code, shall be assessed an annual fee in an amount determined through regulation. The amount of the fee shall be determined by the Department of Managed Health Care and the Department of Insurance in consultation with the university and shall be limited to the amount necessary to fund the actual and necessary expenses of the university and its work in implementing this chapter. The total annual assessment on health care service plans and health insurers shall not exceed two million dollars (\$2,000,000).

(c) The Department of Managed Health Care and the Department of Insurance, in coordination with the university, shall assess the health care service plans and health insurers, respectively, for the costs required to fund the university's activities pursuant to subdivision (b).

(1) Health care service plans shall be notified of the assessment on or before June 15 of each year with the annual assessment notice issued pursuant to Section 1356. The assessment pursuant to this section is separate and independent of the assessments in Section 1356.

(2) Health insurers shall be noticed of the assessment in accordance with the notice for the annual assessment or quarterly premium tax revenues.

(3) The assessed fees required pursuant to subdivision (b) shall be paid on an annual basis no later than August 1 of each year. The Department of Managed Health Care and the Department of Insurance shall forward the assessed fees to the Controller for deposit in the Health Care Benefits Fund immediately following their receipt.

(4) "Health insurance," as used in this subdivision, does not include Medicare supplement, vision-only, dental-only, or CHAMPUS supplement insurance, or hospital indemnity, accident-only, or specified disease insurance that does not pay benefits on a fixed benefit, cash payment only basis.

127663. In order to avoid conflicts of interest, the Legislature requests the University of California to develop and implement conflict-of-interest provisions to prohibit a person from participating in any analysis in which the person knows or has reason to know he or she has a material financial interest, including, but not limited to, a person who has a consulting or other agreement with a person or organization that would be affected by the legislation.



127664. The Legislature requests the University of California to submit a report to the Governor and the Legislature no later than January 1, 2006, regarding the implementation of this chapter. Initial startup funding for the university shall be loaned to the Health Care Benefits Fund from the Managed Care Fund created pursuant to Section 1341.4 and the Insurance Fund created pursuant to Section 12975.8 of the Insurance Code. The Health Care Benefits Fund shall reimburse the Managed Care Fund and the Insurance Fund by September 30, 2003, from the 2003–04 fiscal year assessments received under subdivision (b) of Section 127662. The annual fee for the 2002–03 fiscal year shall be collected at the time the 2003–04 fiscal year assessments are made.

127665. This chapter shall remain in effect until January 1, 2007, and shall be repealed as of that date, unless a later enacted statute that becomes operative on or before January 1, 2007, deletes or extends that date.

