



## Appendix 20: Existing Mandates in California Law

This document (current as of November 3, 2009) has been prepared by the California Health Benefits Review Program (CHBRP). CHBRP responds to requests from the California Legislature to provide independent analysis of the medical, financial, and public health impacts of proposed health insurance benefit mandates and repeals. Annual updates of this list, as well as additional information about CHBRP, can be found at [www.chbrp.org](http://www.chbrp.org).

**Purpose of this list:** This list is intended to alert interested parties of existing state legislation that may relate to the subject or purpose of a health insurance benefit mandate or repeal bill.

**Benefit Mandates listed:** Listed in Table 1 are “health insurance benefit mandates,” as defined by CHBRP’s enabling legislation (California Health and Safety Code Section 127660 et seq.) current in California law. The listed mandates fall into “categories of mandates” that (a) affect coverage for the screening, diagnosis, or treatment of specific diseases or conditions; (b) affect coverage for types of health care treatments or services, including coverage of medical equipment, supplies, or drugs used in a treatment or service; or (c) affect coverage permitting treatment or services from a specific type of health care provider. The list also includes mandates that (d) specify terms (limits, timeframes, copayments, deductibles, coinsurance, etc.) for any of the other categories.

**Information included for listed mandates:** Table 1 identifies relevant statutes and specifies whether the law mandates *coverage* for the benefit or mandates *an offer* of coverage for the benefit. The table also identifies which portions of the insurance market are impacted. Explanations of these terms are provided in Attachment A.

**Other important information:**

- Not all health insurance is subject to state-level health insurance benefit mandate law.
- California has a bifurcated legal and regulatory system for health insurance products. The Department of Managed Health Care (DMHC) regulates health care service plan contracts, which are subject to the Health and Safety Code. The California Department of Insurance (CDI) regulates health insurance policies, which are subject to the California Insurance Code. DMHC-regulated plan contracts and CDI-regulated policies may be subject to state-level benefit mandate laws, depending upon the exact wording of the law.
- Federal benefit mandate laws may interact or overlap with state benefit mandate laws. Some relevant federal laws are noted in the footnotes for Table 1.

- DMHC-regulated health plans are subject to “minimum benefit” laws and regulations, which may interact or overlap with state benefit mandate laws. The Basic Health Care Services requirement for DMHC-regulated health plans is noted in Table 1 and further explained in Attachment B.
- Although CHBRP assesses the impacts of bills, not existing laws, CHBRP’s analysis of Assembly Bill 1214 (2007) required a review and discussion of mandate laws current at that time. That report and all other CHBRP analyses may be accessed at <http://chbrp.org/analyses.html>.

**Table 1. California Health Insurance Benefit Mandates (by Topic)**

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
<b>DMHC-Regulated Health Care Service Plan "Minimum Benefits"</b>						
0	Health Plans regulated by the Department of Managed Care (DMHC) are required to cover medically necessary basic health care services, including: (1) Physician services; (2) Hospital inpatient services and ambulatory care services; (3) Diagnostic laboratory and diagnostic and therapeutic radiologic services; (4) Home health services; (5) Preventive health services; (6) Emergency health care services, including ambulance and ambulance transport services, out-of-area coverage and ambulance transport services provided through the "911" emergency response system; (7) Hospice care. See Attachment B for further details.	Multiple Sections— See Attachment B	N/A <sup>1</sup>	<i>Not a mandate but ...</i>  Coverage	<i>Not a mandate but ...</i>  Group and Individual	<i>Not a mandate</i>
<b>Cancer Benefit Mandates</b>						
1	Breast cancer testing and treatment	1367.6	10123.8	Coverage	N/S <sup>2</sup>	a
2	Cancer screening tests	1367.665	10123.2	Coverage	Group and Individual	b
3	Cervical cancer screening	1367.66	10123.18	Coverage	Group and Individual	a
4	Mammography	1367.65	10123.81	Coverage	N/S	a
5	Mastectomy and lymph node dissection—length of stay	1367.635	10123.86	Coverage	Group and Individual	c
6	Patient care related to clinical trials for cancer	1370.6	10145.4	Coverage	N/S	c
7	Prostate cancer screening	1367.64	10123.83	Coverage	Group and Individual	a
<b>Chronic Conditions Benefit Mandates</b>						
8	Diabetes management and treatment	1367.51	10176.61	Coverage	N/S	a
9	HIV/AIDS, AIDS vaccine	1367.45	10145.2	Coverage	Group and Individual	a
10	HIV/AIDS, HIV Testing	1367.46	10123.91	Coverage	Group and Individual	a
11	HIV/AIDS, Transplantation services for persons with HIV	1374.17	10123.21	Coverage	N/S	c
12	Osteoporosis	1367.67	10123.185	Coverage	N/S	a
13	Phenylketonuria	1374.56	10123.89	Coverage	N/S	a
<b>Hospice &amp; Home Health Care Benefit Mandates</b>						
14	Home health care	N/A	10123.10	Offer	Group	b
15	Hospice care	1368.2	N/A	Coverage	Group	b
<b>Mental Health Benefit Mandates</b>						

<sup>1</sup> N/A indicates that mandate does not apply to products governed under that code.

<sup>2</sup> An N/S indicates that the language of the law does not specify which market is affected.

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
16	Alcohol and drug exclusion	N/A	10369.12	Coverage	Group	c
17	Alcoholism treatment	1367.2(a)	10123.6	Offer	Group	a
18	Coverage and premiums for persons with physical or mental impairment	1367.8	10122.1	Coverage	Group and Individual	c
19	Coverage for mental and nervous disorders	N/A	10125	Offer	Group	a
20	Nicotine treatment in licensed chemical dependency facilities	1367.2(b)	10123.14 10123.6	Coverage	N/S	b
21	Coverage for severe mental illnesses (in parity with coverage for other medical conditions) <sup>3</sup>	1374.72	10123.15 (10144.5)	Coverage	N/S	c
<b>Orthotics &amp; Prosthetics Benefit Mandates</b>						
22	Orthotic and prosthetic devices and services	1367.18	10123.7	Offer	Group	b
23	Prosthetic devices for laryngectomy	1367.61	10123.82	Coverage	N/S	b
24	Special footwear for persons suffering from foot disfigurement	1367.19	10123.141	Offer	N/S	a
<b>Pain Management Benefit Mandates</b>						
25	Acupuncture	N/A	10127.3	Offer	Group	d
26	General anesthesia for dental procedures	1367.71	10119.9	Coverage	N/S	b
27	Pain management medication for terminally ill	1367.215	N/A	Coverage	N/S	b
<b>Pediatric Care Benefit Mandates</b>						
28	Asthma management	1367.06	N/A	Coverage	N/S	a
29	Comprehensive preventive care for children aged 16 years or younger	1367.35	10123.5	Coverage	Group	b
30	Comprehensive preventive care for children aged 17 or 18 years	1367.3	10123.55	Offer	Group	b
31	Coverage for the effects of diethylstilbestrol	1367.9	10119.7	Coverage	N/S	a
32	Screening children for blood lead levels	1367.3 (b)(2)(D)	10119.8	Coverage	Group and Individual	b
<b>Provider Reimbursement Mandates</b>						
33	Emergency 911 transportation	1371.5	10126.6	Coverage	N/S	d
34	Medical transportation services—direct reimbursement	1367.11	10126.6	Coverage	N/S	d
35	OB-GYNs as primary care providers	1367.69	10123.83	Coverage	N/S	d

<sup>3</sup> In addition to these state-level benefit mandates, the federal Mental Health Parity and Addition Equity Act of 2008 requires that *if* a group plan or policy covers mental health, it must do so at parity with coverage for medical and surgical benefits.

#	Topic	Health & Safety Code (DMHC)	California Insurance Code (CDI)	Mandate to Cover or Mandate to Offer	Markets Subject to the Mandate	Mandate Category
36	Pharmacists—compensation for services within their scope of practice	1368.5	N/A	Coverage	N/S	d
<b>Reproduction Benefit Mandates</b>						
37	Contraceptive devices requiring a prescription	1367.25	10123.196	Coverage	N/S	b
38	Expanded alpha fetoprotein	1367.54	10123.184	Coverage	Group and Individual	a
39	Infertility treatments	1374.55	10119.6	Offer	Group	a
40	Maternity—minimum length of stay <sup>4</sup>	1367.62	10123.87	Coverage	Group and Individual	c
41	Maternity—amount of copayment or deductible for inpatient services	1373.4	10119.5	Coverage	N/S	c
42	Prenatal diagnosis of genetic disorders	1367.7	10123.9	Offer	Group	b
<b>Surgery Benefit Mandates</b>						
43	Jawbone or associated bone joints	1367.68	10123.21	Coverage	N/S	a
44	Reconstructive surgery <sup>5</sup>	1367.63	10123.88	Coverage	Group and Individual	b
<b>Terms &amp; Conditions of Coverage Benefit Mandates</b>						
45	Authorization for nonformulary prescription drugs	1367.24	N/A	Coverage	N/S	c
46	Blindness or partial blindness	1367.4	N/A	Coverage	Group and Individual	c
47	Prescription drugs: coverage for previously prescribed drugs	1367.22	N/A	Coverage	N/S	c
48	Prescription drugs: coverage of “off-label” use	1367.21	10123.195	Coverage	N/S	c

<sup>4</sup> The federal Newborns’ and Mothers’ Health Protection Act of 1996 requires coverage for a minimum length of stay in a hospital after delivery *if* the plan covers maternity services.

<sup>5</sup> The federal Women’s Health and Cancer Rights Act of 1998 requires coverage for post-mastectomy reconstructive surgery.

## Attachment A: Terms and Categories for Table 1

Code—A health insurance benefit mandate is a law requiring health insurance products (plans and policies) to provide, or in specified cases simply to offer, coverage for specified benefits or services. Because California has a bifurcated regulatory system for health insurance products, a benefit mandate law may appear in either of two codes or in both:

- Health and Safety Code: The California Department of Managed Health Care (DMHC) regulates and licenses health care services plans as per the California Health and Safety Code.
- Insurance Code: The California Department of Insurance (CDI) licenses disability insurance carriers and regulates disability insurance, which includes health insurance policies, per the California Insurance Code.

Mandated Coverage or Mandated Offer of Coverage—In the language of either code section, the law may mandate coverage of benefits or may mandate that coverage for the benefits be offered.

- “Mandate to cover” means that all health insurance subject to the law must cover the benefit.  
“Mandate to offer” means all health care service plans and health insurers selling health insurance subject to the mandate are required to offer coverage for the benefit for purchase. The health plan or insurer may comply with the mandate either by including the benefit as standard in its health insurance products, or by offering coverage for the benefit separately at an additional cost (e.g., a rider).

Markets Subject to the Mandate—In the language of either code section, the law may (or may not) specify which market or markets are subject to the mandate.

- The “group” market includes health insurance products issued to employers (or other entities) to provide coverage for employees (or other persons) and/or their dependents.
- The “individual” market includes health insurance products issued to an individual to provide coverage for a person and/or his/her dependants.

Mandate Category—As per CHBRP’s enabling legislation (California Health and Safety Code Section 127660 et seq.), the listed mandates fall into one or more types. A particular mandate law can require that subject health insurance do one or more of the following:

- a. 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. An example of a mandate to cover screening tests would be a mandate to cover prostate cancer screening.
- b. Offer or provide coverage for the screening, diagnosis, or treatment of a particular disease or condition. An example of a mandate to cover a set of services for treatment of condition is the mandate that requires coverage for all services to screen and treat breast cancer.
- c. Offer or provide coverage for services from a specified type of health provider that fall within the provider’s scope of practice. An example would be a mandate that requires coverage for services provided by a licensed acupuncturist.
- d. Offer or provide any of the forms of coverage listed above per specific terms and conditions. For example, the mental health parity law requires coverage for serious mental health conditions to be *on par* with other medical conditions, so that mental health benefits and other benefits are subject to the same copayments, limits, etc.

## **Attachment B: Basic Health Care Services for DMHC-Regulated Health Care Service Plans\***

The California Department of Managed Health Care (DMHC) regulates health care service plans, which are subject to the California Health and Safety Code. The Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) requires all health care service plans, except specialized health care service plans, to provide coverage for all medically necessary basic health care services.

This requirement is based on several sections of the Knox-Keene Act rather than one straightforward provision, and so is not technically a Health Insurance Benefit Mandate. Specifically, subdivision (b) of Section 1345 defines the term "basic health care services" to mean all of the following: (1) Physician services, including consultation and referral; (2) Hospital inpatient services and ambulatory care services; (3) Diagnostic laboratory and diagnostic and therapeutic radiologic services; (4) Home health services; (5) Preventive health services; (6) Emergency health care services, including ambulance and ambulance transport services and out-of-area coverage and ambulance transport services provided through the "911" emergency response system; (7) Hospice care pursuant to Section 1368.2. "Basic health care services" are also further defined in Section 1300.67 of the California Code of Regulations.

In addition, subdivision (i) of Section 1367 of the Health and Safety Code provides the following: (i) A health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the director may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The director shall by rule define the scope of each basic health care service that health care service plans are required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, 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.

Although the Act does not explicitly state that "basic health care services" means all "medically necessary" basic health care services, there are numerous provisions within the act that reference "medical necessity" and that place requirements on plans in terms of what they must do when denying, delaying, or modifying coverage based on a decision for medical necessity. (Section 1367.01) In addition, Section 1300.67 of Title 28 of the California Code of Regulation, which further defines "basic health care services" does further clarify that "the basic health care services required to be provided by a health care service plan to its enrollees shall include, where medically necessary, subject to any co-payment, deductible, or limitation of which the Director may approve..."

The entire Knox-Keene Act and the applicable regulations can be accessed online on the DMHC's Web site at <http://www.dmhc.ca.gov>.

\* The text in this attachment was adapted from a document prepared by a representative of the Department of Managed Health Care (S. Lowenstien) and distributed at CHBRP's 2008 October Workshop.

**Attachment C: California Mandates (by Health and Safety Code Section)**

The following table is presented to allow easy comparison with other lists of mandates.

# of Mandate in Table 1	Health and Safety Code (DMHC)	California Insurance Code (CDI)
14	N/A <sup>6</sup>	10123.10
16	N/A	10369.12
19	N/A	10125
25	N/A	10127.3
28	1367.06	N/A
34	1367.11	10126.6
22	1367.18	10123.7
24	1367.19	10123.141
17	1367.2(a)	10123.6
20	1367.2(b)	10123.14 10123.6
48	1367.21	10123.195
27	1367.215	N/A
47	1367.22	N/A
45	1367.24	N/A
37	1367.25	10123.196
30	1367.3	10123.55
32	1367.3 (b)(2)(D)	10119.8
29	1367.35	10123.5
46	1367.4	N/A
9	1367.45	10145.2
10	1367.46	10123.91
8	1367.51	10176.61
38	1367.54	10123.184
1	1367.6	10123.8
23	1367.61	10123.82
40	1367.62	10123.87

# of Mandate in Table 1	Health and Safety Code (DMHC)	California Insurance Code (CDI)
44	1367.63	10123.88
5	1367.635	10123.86
7	1367.64	10123.83
4	1367.65	10123.81
3	1367.66	10123.18
2	1367.665	10123.2
12	1367.67	10123.185
43	1367.68	10123.21
35	1367.69	10123.83
42	1367.7	10123.9
26	1367.71	10119.9
18	1367.8	10122.1
31	1367.9	10119.7
15	1368.2	N/A
36	1368.5	N/A
6	1370.6	10145.4
33	1371.5	10126.6
41	1373.4	10119.5
11	1374.17	10123.21
39	1374.55	10119.6
13	1374.56	10123.89
21	1374.72	10123.15 (10144.5)

<sup>6</sup> An N/A in either the Health and Safety Code column or the California Insurance Code column indicates that a mandate does not apply to products covered under that code.

**Attachment D: California Mandates (by Insurance Code Section)**

The following table is presented to allow easy comparison with other lists of mandates.

# of Mandate in Table 1	Health and Safety Code (DMHC)	California Insurance Code (CDI)
28	1367.06	N/A <sup>7</sup>
27	1367.215	N/A
47	1367.22	N/A
45	1367.24	N/A
46	1367.4	N/A
15	1368.2	N/A
36	1368.5	N/A
21	1374.72	10123.15 (10144.5)
41	1373.4	10119.5
39	1374.55	10119.6
31	1367.9	10119.7
32	1367.3 (b)(2)(D)	10119.8
26	1367.71	10119.9
18	1367.8	10122.1
14	N/A	10123.10
20	1367.2(b)	10123.14 10123.6
24	1367.19	10123.141
3	1367.66	10123.18
38	1367.54	10123.184
12	1367.67	10123.185
48	1367.21	10123.195
37	1367.25	10123.196
2	1367.665	10123.2
43	1367.68	10123.21
11	1374.17	10123.21

<sup>7</sup> An N/A in either the Health & Safety Code column or the California Insurance Code column indicates that a mandate does not apply to products covered under that code.

# of Mandate in Table 1	Health and Safety Code (DMHC)	California Insurance Code (CDI)
29	1367.35	10123.5
30	1367.3	10123.55
17	1367.2(a)	10123.6
22	1367.18	10123.7
1	1367.6	10123.8
4	1367.65	10123.81
23	1367.61	10123.82
7	1367.64	10123.83
35	1367.69	10123.83
5	1367.635	10123.86
40	1367.62	10123.87
44	1367.63	10123.88
13	1374.56	10123.89
42	1367.7	10123.9
10	1367.46	10123.91
19	N/A	10125
34	1367.11	10126.6
33	1371.5	10126.6
25	N/A	10127.3
9	1367.45	10145.2
6	1370.6	10145.4
8	1367.51	10176.61
16	N/A	10369.12