SENATE BILL No. 1094

Introduced by Senator Weber Pierson

February 13, 2026

An act to amend Section 4073.5 of the Business and Professions Code, to amend Section 1367.22 of the Health and Safety Code, and to add Section 10123.190 to the Insurance Code, relating to prescription drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1094, as introduced, Weber Pierson. Prescription drugs.

(1) The Pharmacy Law governs the practice of pharmacy in this state, including the permissible duties of licensed pharmacists. A knowing violation of the Pharmacy Law is a misdemeanor. Existing law authorizes a pharmacist to select an alternative biological product when filling a prescription order for a prescribed biological product if the alternative biological product is interchangeable, as defined, and the prescriber does not personally indicate in a specified manner that a substitution is not to be made.

This bill would additionally authorize a pharmacist to select an alternative biological product when filling a prescription order for a prescribed biological product if the alternative biological product is a biosimilar, as defined, and the prescriber does not personally indicate in a specified manner that a substitution is not to be made. Because a knowing violation of this provision would be a misdemeanor, the bill would create a new crime, thereby imposing a state-mandated local program.

(2) 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 provides for the regulation of health insurers by the Department of Insurance.

Existing law prohibits a health care service plan that covers prescription drug benefits from limiting or excluding coverage for a drug that was previously approved for coverage if an enrollee continues to be prescribed that drug and that drug is appropriately prescribed and considered safe and effective for treating the enrollee's medical condition. Existing law specifies that these provisions do not preclude a prescribing provider from prescribing another drug covered by the plan that is medically appropriate for the enrollee or a generic drug substitution authorized by a pharmacist, as specified.

This bill would prohibit a health insurance policy that covers prescription drug benefits from limiting or excluding coverage for a drug that was previously approved for coverage if an insured continues to be prescribed that drug and the drug is appropriately prescribed, continues to be medically necessary for the treatment of the insured's medical condition, and is considered safe and effective for treating the insured's medical condition as demonstrated by evidence-based practice, as specified. With respect to both health care service plans and health insurers, the bill would specify that these provisions do not prohibit a prescribing provider from prescribing a biosimilar drug substitution authorized by a pharmacist, as described above. The bill would specify that these provisions do not prohibit a health care service plan, health insurer, or utilization review organization from requiring an enrollee or insured to try an AB-rated generic equivalent, biosimilar, or interchangeable biological product that is the same or similar to the brand name drug or reference product that was previously approved for coverage by the plan or insurer if specified conditions are met. Because a violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

(3) 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. It is the intent of the Legislature to promote the use of equally effective lower cost treatments to ensure access and affordability for Californians and to promote the coverage of equally effective lower cost products within three calendar months of national availability.

SEC. 2. Section 4073.5 of the Business and Professions Code is amended to read:

4073.5. (a) A pharmacist filling a prescription order for a prescribed biological product may select an alternative biological product only if all of the following:

(1) The alternative biological product is *a biosimilar or* interchangeable.

(2) The prescriber does not personally indicate "Do not substitute," or words of similar meaning, in the manner provided in subdivision (d).

(b) Within five days following the dispensing of a biological product, a dispensing pharmacist or the pharmacists' designee shall make an entry of the specific biological product provided to the patient, including the name of the biological product and the manufacturer. The communication shall be conveyed by making an entry that can be electronically accessed by the prescriber through one or more of the following electronic records systems:

(1) An interoperable electronic medical records system.

(2) An electronic prescribing technology.

(3) A pharmacy benefit management system.

(4) A pharmacy record.

(c) Entry into an electronic records system as described in subdivision (b) is presumed to provide notice to the prescriber.

(d) If the pharmacy does not have access to one or more of the entry systems in subdivision (b), the pharmacist or the pharmacist's designee shall communicate the name of the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, except that communication shall not be required in this instance to the prescriber when either of the following apply:

(1) There is no *biosimilar or* interchangeable biological product approved by the federal Food and Drug Administration for the product prescribed.

(2) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(e) ~~In no case shall a selection~~ *A selection shall not* be made pursuant to this section if the prescriber personally indicates, either orally or in ~~his or her~~ *the prescriber's* own handwriting, "Do not substitute," or words of similar meaning.

(1) This subdivision shall not prohibit a prescriber from checking a box on a prescription marked "Do not substitute," provided that the prescriber personally initials the box or checkmark.

(2) To indicate that a selection shall not be made pursuant to this section for an electronic data transmission prescription, as defined in subdivision (c) of Section 4040, a prescriber may indicate "Do not substitute," or words of similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription "Do not substitute." In either instance, it shall not be required that the prohibition on substitution be manually initialed by the prescriber.

(f) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (e). A pharmacist who selects an alternative biological product to be dispensed pursuant to this section shall assume the same responsibility for substituting the biological product as would be incurred in filling a prescription for a biological product prescribed by name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a biological product pursuant to this section. In no case shall the pharmacist select a biological product that meets the requirements of subdivision (a) unless the cost to the patient of the biological product selected is the same or less than the cost of the prescribed biological product. Cost, as used in this subdivision, includes any professional fee that may be charged by the pharmacist.

(g) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the Medi-Cal Act set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(h) When a selection is made pursuant to this section, the substitution of a biological product shall be communicated to the patient.

(i) The board shall maintain on its public ~~Internet Web site~~ *internet website* a link to the current list, if available, of biological products determined by the federal Food and Drug Administration to be interchangeable.

(j) For purposes of this section, the following terms shall have the following meanings:

(1) "Biological product" has the same meaning that applies to that term under Section 351 of the federal Public Health Service Act (42 U.S.C. Sec. 262(i)).

(2) "Biosimilar" has the same meaning as defined in Section 262(i) of Title 42 of the United States Code.

~~(2)~~

(3) "Interchangeable" means a biological product that the federal Food and Drug Administration has determined meets the standards set forth in Section 262(k)(4) of Title 42 of the United States Code, or has been deemed therapeutically equivalent by the federal Food and Drug Administration as set forth in the latest addition or supplement of the Approved Drug Products with Therapeutic Equivalence Evaluations.

~~(3)~~

(4) "Prescription," with respect to a biological product, means a prescription for a product that is subject to Section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 353(b)).

(k) This section shall not prohibit the administration of immunizations, as permitted in Sections 4052 and 4052.8.

(*l*) This section shall not prohibit a disability insurer or health care service plan from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any biological product.

SEC. 3. Section 1367.22 of the Health and Safety Code is amended to read:

1367.22. (a) *(1)* A health care service plan contract, issued, amended, or renewed on or after July 1, 1999, that covers prescription drug benefits shall not limit or exclude coverage for a drug for an enrollee if the drug previously had been approved for coverage by the plan for a medical condition of the enrollee and the plan's prescribing provider continues to prescribe the drug for the medical condition, provided that the drug is appropriately prescribed and is considered safe and effective for treating the enrollee's medical condition. ~~Nothing in this section shall preclude~~

(2) This section does not preclude the prescribing provider from prescribing another drug covered by the plan that is medically appropriate for the enrollee, ~~nor shall anything in this section be construed to~~ *and does not* prohibit generic *or biosimilar* drug substitutions as authorized by ~~Section 4073~~ *Sections 4073 and 4073.5* of the Business and Professions Code. For purposes of this section, a prescribing provider shall include a provider authorized to write a prescription, pursuant to subdivision (a) of Section 4059 of the Business and Professions Code, to treat a medical condition of an enrollee.

(b) (1) This section does not prohibit a health care service plan or utilization review organization from requiring an enrollee to try an AB-rated generic equivalent, biosimilar, or interchangeable biological product that is the same or similar to the brand name drug or reference product that was previously approved for coverage by the plan if all of the following conditions are met:

(A) The prescriber has not personally indicated "Do not substitute," or words of similar meaning.

(B) The net cost to the plan of the substitute is lower than the brand name or reference product.

(C) The enrollee cost sharing is based on the net cost of the drug or product and is the same or less than the cost sharing for the brand name drug or reference product.

(2) The plan shall include with the information required to be provided to the department pursuant to Section 1367.243 both of the following information:

(A) The proportion of prescription substitutions made through this subdivision that resulted in reduced cost sharing as well as information about the factors affecting when an enrollee's cost sharing is not reduced.

(B) The impact of substitutions permitted under this subdivision on premiums.

~~(b)~~

(c) This section does not apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the federal Food and Drug Administration. Coverage for different-use drugs is subject to Section 1367.21.

~~(c)~~

(d) This section shall not be construed to restrict or impair the application of any other provision of this chapter, including, but not limited to, Section 1367, which includes among its requirements that plans furnish services in a manner providing continuity of care and demonstrate that medical decisions are rendered by qualified medical providers unhindered by fiscal and administrative management.

~~(d)~~

(e) 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.

(f) For purposes of this section, the following definitions apply:

(1) "Biosimilar" has the same meaning as defined in Section 262(i)(2) of Title 42 of the United States Code.

(2) "Cost sharing" includes a copayment, coinsurance, deductible, or any other form of cost sharing.

(3) "Interchangeable biological product" has the same meaning as defined in Section 262(i)(3) of Title 42 of the United States Code.

(4) "Reference product" has the same meaning as defined in Section 262(i)(4) of Title 42 of the United States Code.

SEC. 4. Section 10123.190 is added to the Insurance Code, to read:

10123.190. (a) (1) A health insurance policy issued, amended, or renewed on or after January 1, 2027, that covers prescription drug benefits shall not limit or exclude coverage for a drug for an insured if the drug previously had been approved for coverage by the insurer for a medical condition of the insured and the insured's prescribing provider continues to prescribe the drug for the medical condition, if the drug is appropriately prescribed and is considered safe and effective for treating the insured's medical condition.

(2) This section does not preclude the prescribing provider from prescribing another drug covered by the insurer that is medically appropriate for the insured, and does not prohibit generic or biosimilar drug substitutions as authorized by Sections 4073 and

4073.5 of the Business and Professions Code. For purposes of this section, a prescribing provider shall include a provider authorized to write a prescription, pursuant to subdivision (a) of Section 4059 of the Business and Professions Code, to treat a medical condition of an insured.

(b) (1) This section does not prohibit a health insurer or utilization review organization from requiring an insured to try an AB-rated generic equivalent, biosimilar, or interchangeable biological product that is the same or similar to the brand name drug or reference product that was previously approved for coverage by the insurer if all of the following conditions are met:

(A) The prescriber has not personally indicated "Do not substitute," or words of similar meaning.

(B) The net cost to the insurer of the substitute is lower than the brand name or reference product.

(C) The insured cost sharing is based on the net cost of the drug or product and is the same or less than the cost sharing for the brand name drug or reference product.

(2) The insurer shall include with the information required to be provided to the department pursuant to Section 10123.205 both of the following information:

(A) The proportion of prescription substitutions made through this subdivision that resulted in reduced cost sharing as well as information about the factors affecting when an insured's cost sharing is not reduced.

(B) The impact of substitutions permitted under this subdivision on premiums.

(c) This section does not apply to coverage for any drug that is prescribed for a use that is different from the use for which that drug has been approved for marketing by the federal Food and Drug Administration. Coverage for different-use drugs is subject to Section 10123.195.

(d) This section shall not be construed to restrict or impair the application of any other provision of this article.

(e) This section does not prohibit a health insurer 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, if the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and disclosed to the insured.

(f) For purposes of this section, the following definitions apply:

(1) "Biosimilar" has the same meaning as defined in Section 262(i)(2) of Title 42 of the United States Code.

(2) "Cost sharing" includes a copayment, coinsurance, deductible, or any other form of cost sharing.

(3) "Interchangeable biological product" has the same meaning as defined in Section 262(i)(3) of Title 42 of the United States Code.

(4) "Reference product" has the same meaning as defined in Section 262(i)(4) of Title 42 of the United States Code.

SEC. 5. 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.

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