On April 9, 2013, the Senate Committee on Health requested that CHBRP analyze SB 799.

Below is the bill language, as it was amended on April 1, 2013. The Bill Author has indicated to CHBRP that the bill will be amended again to define “frequent screenings” as “annual screenings.” CHBRP, with agreement from the requesting Health Committee, has analyzed the text as it will be amended. In the text below, [annual] has been inserted to indicate the intended amendments.

BILL NUMBER: SB 799 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 1, 2013

INTRODUCED BY Senator Calderon

FEBRUARY 22, 2013

An act to ~~amend Section 127405 of~~ *add Section 1367.667 to, and to add Article 4 (commencing with Section 104201) to Chapter 2 of Part 1 of Division 103 of,* the Health and Safety Code, *and to add Section 10123.22 to the Insurance Code,* relating to ~~hospitals~~ *health care coverage* .

LEGISLATIVE COUNSEL'S DIGEST

SB 799, as amended, Calderon. ~~Hospitals: fair pricing.~~ *Health care coverage: colorectal cancer: genetic testing and screening.*

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 also provides for the regulation of health insurers by the Department of Insurance. Existing law requires individual and group health care service plan contracts and health insurance policies to provide coverage for all generally medically accepted cancer screening tests and requires those contracts and policies to also provide coverage for the treatment of breast cancer. Existing law requires an individual or small group health care service plan contract or insurance policy issued, amended, or renewed on or after January 1, 2014, to, at a minimum, include coverage for essential health benefits, which includes preventive services, pursuant to the federal Patient Protection and Affordable Care Act.

This bill would require a health care service plan contract or a health insurance policy, except as specified, that is issued, amended, or renewed on or after January 1, 2014, to provide coverage for genetic testing for hereditary nonpolyposis colorectal cancer (HNPCC) and screening for colorectal cancer under specified circumstances. Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

This bill would also require a physician and surgeon who makes a

diagnosis that a patient has colorectal cancer to provide the patient with specified information.

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.

~~Existing law requires each hospital to maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350% of the federal poverty level, as defined, are eligible to apply for participation under a hospital's charity care policy or discount payment policy.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes* . State-mandated local program: ~~no~~ *yes* .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1367.667 is added to the Health and Safety Code , to read:

1367.667. Every health care service plan contract, except a specialized health care service plan contract, that is issued, amended, or renewed on or after January 1, 2014, shall provide coverage for all of the following:

(a) Genetic testing for hereditary nonpolyposis colorectal cancer (HNPCC) for an enrollee who is under 50 years of age and has been diagnosed with colorectal cancer.

(b) Genetic testing for HNPCC for an enrollee who is the child or sibling of an individual who has been diagnosed with colorectal cancer and has tested positive for the gene mutation for HNPCC.

(c) Frequent [annual] *screenings, including colonoscopies, for an enrollee who has tested positive for the gene mutation for HNPCC, and is the child or sibling of an individual who has been diagnosed with colorectal cancer and has tested positive for the gene mutation for HNPCC.*

SEC. 2. Article 4 (commencing with Section 104201) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code , to read:

Article 4. Colorectal Cancer

104201. If a physician and surgeon makes a diagnosis that a patient has colorectal cancer, the physician and surgeon shall recommend that the patient be tested for the genetic mutation for hereditary nonpolyposis colorectal cancer (HNPCC). The physician and surgeon shall also inform the patient that genetic testing for HNPCC may be covered by the patient's health care coverage, and that genetic testing and screening for his or her children or siblings may be covered by the children's or siblings' health care coverage if the patient tests positive for the HNPCC gene mutation.

SEC. 3. Section 10123.22 is added to the Insurance Code , to read:

10123.22. Every health insurance policy, except a specialized health insurance policy, that is issued, amended, or renewed on or after January 1, 2014, shall provide coverage for all of the following:

(a) Genetic testing for hereditary nonpolyposis colorectal cancer (HNPCC) for an insured who is under 50 years of age and has been diagnosed with colorectal cancer.

(b) Genetic testing for HNPCC for an insured who is the child or sibling of an individual who has been diagnosed with colorectal cancer and has tested positive for the gene mutation for HNPCC.

(c) Frequent [annual] *screenings, including colonoscopies, for an insured who has tested positive for the gene mutation for HNPCC, and is the child or sibling of an individual who has been diagnosed with colorectal cancer and has tested positive for the gene mutation for HNPCC.*

SEC. 4. 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.

~~SECTION 1. Section 127405 of the Health and Safety Code is amended to read:~~

~~127405. (a) (1) (A) Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, shall be eligible to apply for participation under a hospital's charity care policy or discount payment policy. Notwithstanding any other provision of this article, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 350 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state the process the hospital uses to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.~~

~~(B) The written policy regarding discount payments shall also include a statement that an emergency physician, as defined in Section 127450, who provides emergency medical services in a hospital that provides emergency care is also required by law to provide discounts to uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level. This statement shall not be construed to impose any additional responsibilities upon the hospital.~~

~~(2) Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 350 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.~~

~~(b) A hospital's discount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient may negotiate the terms of the payment plan.~~

~~(c) The charity care policy shall state clearly the eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patient's monetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patient's monetary assets over the first ten thousand dollars ($10,000) be counted in determining eligibility.~~

~~(d) A hospital shall limit expected payment for services it provides to a patient at or below 350 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, eligible under its discount payment policy to the amount of payment the hospital would expect, in good faith, to receive for providing services from Medicare, Medi-Cal, the Healthy Families Program, or another government-sponsored health program of health benefits in which the hospital participates, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.~~

~~(e) A patient, or patient's legal representative, who requests a discounted payment, charity care, or other assistance in meeting his or her financial obligation to the hospital shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary for the hospital to make a determination, the hospital may consider that failure in making its determination.~~

~~(1) For purposes of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.~~

~~(2) For purposes of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. A hospital may require waivers or releases from the patient or the patient's family, authorizing the hospital to obtain account information from financial or commercial institutions, or other entities that hold or maintain the monetary assets, to verify their value.~~

~~(3) Information obtained pursuant to paragraph (1) or (2) shall not be used for collections activities. This paragraph does not prohibit the use of information obtained by the hospital, collection agency, or assignee independently of the eligibility process for charity care or discounted payment.~~

~~(4) Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information~~

~~specified in paragraph (1) or (2), respectively.~~