

ASSEMBLY BILL

No. 244

**Introduced by Assembly Member Beall
(Principal coauthor: Assembly Member Chesbro)**

February 10, 2009

An act to add Section 22856 to the Government Code, to add Section 1374.74 to the Health and Safety Code, and to add Section 10144.8 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 244, as introduced, Beall. Health care coverage: mental health services.

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. Under existing law, a health care service plan contract and a health insurance policy are required to provide coverage for the diagnosis and treatment of severe mental illnesses of a person of any age. Existing law does not define "severe mental illnesses" for this purpose but describes it as including several conditions.

This bill would expand this coverage requirement for certain health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2010, to include the diagnosis and treatment of a mental illness of a person of any age and would define mental illness for this purpose as a mental disorder defined in the Diagnostic and Statistical Manual IV. The bill would specify that this requirement does not apply to a health care benefit plan, contract,

or health insurance policy with the Board of Administration of the Public Employees’ Retirement System unless the board elects to purchase a plan, contract, or policy that provides mental health coverage.

Because this bill would expand coverage requirements for health care service plans, the willful violation of which would be a crime, it 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:

1 SECTION 1. Section 22856 is added to the Government Code,
2 to read:

3 22856. The board may purchase a health care benefit plan or
4 contract or a health insurance policy that includes mental health
5 coverage as described in Section 1374.74 of the Health and Safety
6 Code or Section 10144.8 of the Insurance Code.

7 SEC. 2. Section 1374.74 is added to the Health and Safety
8 Code, to read:

9 1374.74. (a) A health care service plan contract issued,
10 amended, or renewed on or after January 1, 2010, that provides
11 hospital, medical, or surgical coverage shall provide coverage for
12 the diagnosis and medically necessary treatment of a mental illness
13 of a person of any age, including a child, under the same terms
14 and conditions applied to other medical conditions as specified in
15 subdivision (c) of Section 1374.72. The benefits provided under
16 this section shall include all those set forth in subdivision (b) of
17 Section 1374.72. “Mental illness” for the purposes of this section
18 means a mental disorder defined in the Diagnostic and Statistical
19 Manual IV, or subsequent editions, published by the American
20 Psychiatric Association, and includes substance abuse.

21 (b) (1) For the purpose of compliance with this section, a plan
22 may provide coverage for all or part of the mental health services
23 required by this section through a separate specialized health care

1 service plan or mental health plan, and shall not be required to
2 obtain an additional or specialized license for this purpose.

3 (2) A plan shall provide the mental health coverage required by
4 this section in its entire service area and in emergency situations
5 as may be required by applicable laws and regulations. For
6 purposes of this section, health care service plan contracts that
7 provide benefits to enrollees through preferred provider contracting
8 arrangements are not precluded from requiring enrollees who reside
9 or work in geographic areas served by specialized health care
10 service plans or mental health plans to secure all or part of their
11 mental health services within those geographic areas served by
12 specialized health care service plans or mental health plans.

13 (3) In the provision of benefits required by this section, a health
14 care service plan may utilize case management, network providers,
15 utilization review techniques, prior authorization, copayments, or
16 other cost sharing to the extent permitted by law or regulation.

17 (c) Nothing in this section shall be construed to deny or restrict
18 in any way the department's authority to ensure plan compliance
19 with this chapter when a plan provides coverage for prescription
20 drugs.

21 (d) This section shall not apply to contracts entered into pursuant
22 to Chapter 7 (commencing with Section 14000) or Chapter 8
23 (commencing with Section 14200) of Part 3 of Division 9 of the
24 Welfare and Institutions Code, between the State Department of
25 Health Care Services and a health care service plan for enrolled
26 Medi-Cal beneficiaries.

27 (e) This section shall not apply to a health care benefit plan or
28 contract entered into with the Board of Administration of the Public
29 Employees' Retirement System pursuant to the Public Employees'
30 Medical and Hospital Care Act (Part 5 (commencing with Section
31 22750) of Division 5 of Title 2 of the Government Code) unless
32 the board elects, pursuant to Section 22856 of the Government
33 Code, to purchase a health care benefit plan or contract that
34 provides mental health coverage as described in this section.

35 SEC. 3. Section 10144.8 is added to the Insurance Code, to
36 read:

37 10144.8. (a) A policy of health insurance that covers hospital,
38 medical, or surgical expenses in this state that is issued, amended,
39 or renewed on or after January 1, 2010, shall provide coverage for
40 the diagnosis and medically necessary treatment of a mental illness

1 of a person of any age, including a child, under the same terms
2 and conditions applied to other medical conditions as specified in
3 subdivision (c) of Section 10144.5. The benefits provided under
4 this section shall include all those set forth in subdivision (b) of
5 Section 10144.5. “Mental illness” for the purposes of this section
6 means a mental disorder defined in the Diagnostic and Statistical
7 Manual IV, or subsequent editions, published by the American
8 Psychiatric Association, and includes substance abuse.

9 (b) (1) For the purpose of compliance with this section, a health
10 insurer may provide coverage for all or part of the mental health
11 services required by this section through a separate specialized
12 health care service plan or mental health plan, and shall not be
13 required to obtain an additional or specialized license for this
14 purpose.

15 (2) A health insurer shall provide the mental health coverage
16 required by this section in its entire in-state service area and in
17 emergency situations as may be required by applicable laws and
18 regulations. For purposes of this section, health insurers are not
19 precluded from requiring insureds who reside or work in
20 geographic areas served by specialized health care service plans
21 or mental health plans to secure all or part of their mental health
22 services within those geographic areas served by specialized health
23 care service plans or mental health plans.

24 (3) In the provision of benefits required by this section, a health
25 insurer may utilize case management, managed care, or utilization
26 review to the extent permitted by law or regulation.

27 (4) Any action that a health insurer takes to implement this
28 section, including, but not limited to, contracting with preferred
29 provider organizations, shall not be deemed to be an action that
30 would otherwise require licensure as a health care service plan
31 under the Knox-Keene Health Care Service Plan Act of 1975
32 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
33 the Health and Safety Code).

34 (c) This section shall not apply to accident-only, specified
35 disease, hospital indemnity, Medicare supplement, dental-only, or
36 vision-only insurance policies.

37 (d) This section shall not apply to a policy of health insurance
38 purchased by the Board of Administration of the Public Employees’
39 Retirement System pursuant to the Public Employees’ Medical
40 and Hospital Care Act (Part 5 (commencing with Section 22750))

1 of Division 5 of Title 2 of the Government Code) unless the board
2 elects, pursuant to Section 22856 of the Government Code, to
3 purchase a policy of health insurance that covers mental health
4 services as described in this section.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.