

ASSEMBLY BILL

No. 2643

Introduced by Assembly Member Irwin

February 15, 2018

An act to amend Section 1682 of the Business and Professions Code, to amend Section 1367.71 of the Health and Safety Code, and to amend Section 10119.9 of the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2643, as introduced, Irwin. Dentistry: general anesthesia: health care coverage.

The Dental Practice Act provides for the licensure and regulation of dentists by the Dental Board of California. The act governs the use of general anesthesia, conscious sedation, and oral conscious sedation for pediatric and adult patients. The act makes it unprofessional conduct for any dentist to fail to obtain the written informed consent of a patient prior to administering general anesthesia or conscious sedation. With respect to a minor, the act also requires that the written informed consent include a specified statement that, among other things, encourages the parent or guardian to explore all the options available for a child's anesthesia for his or her dental treatment.

This bill would revise the required written informed consent statement, applicable for minors, to specify that it is required in the case of general anesthesia. The bill would also revise the content of that statement to require it to include a provision to encourage exploring nonsurgical treatment options.

Existing law, the Knox-Keene Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and make a willful violation of

that act a crime. Existing law also provides for the regulation of policies of disability insurance by the Insurance Commissioner.

Existing law provides that specified health care service plan contracts and disability insurance policies and certificates are deemed to cover general anesthesia and associated facility charges for dental procedures, upon specified authorization for enrollees or insureds under 7 years of age, enrollees or insureds who are developmentally disabled, or enrollees or insureds whose health is compromised and for whom general anesthesia is medically necessary, if certain other conditions are present. Under existing law, these provisions apply to those procedures rendered in a hospital or surgery center.

This bill, with respect to contracts or policies issued, amended, or renewed on or after January 1, 2019, would remove the language that limits coverage to procedures rendered in a hospital or surgery center.

Because a willful violation of that requirement by a health care service plan would be a crime, the bill 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 1682 of the Business and Professions
- 2 Code is amended to read:
- 3 1682. In addition to other acts constituting unprofessional
- 4 conduct under this chapter, it is unprofessional conduct for:
- 5 (a) Any dentist performing dental procedures to have more than
- 6 one patient undergoing conscious sedation or general anesthesia
- 7 on an outpatient basis at any given time unless each patient is being
- 8 continuously monitored on a one-to-one ratio while sedated by
- 9 either the dentist or another licensed health professional authorized
- 10 by law to administer conscious sedation or general anesthesia.
- 11 (b) Any dentist with patients recovering from conscious sedation
- 12 or general anesthesia to fail to have the patients closely monitored
- 13 by licensed health professionals experienced in the care and

1 resuscitation of patients recovering from conscious sedation or
2 general anesthesia. If one licensed professional is responsible for
3 the recovery care of more than one patient at a time, all of the
4 patients shall be physically in the same room to allow continuous
5 visual contact with all patients and the patient to recovery staff
6 ratio should not exceed three to one.

7 (c) Any dentist with patients who are undergoing conscious
8 sedation to fail to have these patients continuously monitored
9 during the dental procedure with a pulse oximeter or similar or
10 superior monitoring equipment required by the board.

11 (d) Any dentist with patients who are undergoing conscious
12 sedation to have dental office personnel directly involved with the
13 care of those patients who are not certified in basic cardiac life
14 support (CPR) and recertified biennially.

15 (e) (1) Any dentist to fail to obtain the written informed consent
16 of a patient prior to administering general anesthesia or conscious
17 sedation. In the case of a minor, the consent shall be obtained from
18 the child's parent or guardian.

19 (2) The written informed—~~consent~~, *consent for general*
20 *anesthesia*, in the case of a minor, shall include, but not be limited
21 to, the following information:

22 “The administration and monitoring of general anesthesia may
23 vary depending on the type of procedure, the type of practitioner,
24 the age and health of the patient, and the setting in which anesthesia
25 is provided. Risks may vary with each specific situation. You are
26 encouraged to explore all the options available for your child's
27 anesthesia for his or her dental—~~treatment~~, *treatment, including*
28 *nonsurgical treatment options*, and consult with your dentist or
29 pediatrician as needed.”

30 (3) Nothing in this subdivision shall be construed to establish
31 the reasonable standard of care for administering or monitoring
32 oral conscious sedation, conscious sedation, or general anesthesia.

33 SEC. 2. Section 1367.71 of the Health and Safety Code is
34 amended to read:

35 1367.71. (a) Every health care service plan contract, other than
36 a specialized health care service plan contract, that is issued,
37 amended, renewed, or delivered on or after January 1, ~~2000~~, 2019,
38 shall be deemed to cover general anesthesia and associated facility
39 charges for dental procedures—~~rendered in a hospital or surgery~~
40 ~~center setting~~, when the clinical status or underlying medical

1 condition of the patient requires dental procedures that ordinarily
2 would not require general ~~anesthesia to be rendered in a hospital
3 or surgery center setting.~~ *anesthesia*. The health care service plan
4 may require prior authorization of general anesthesia and associated
5 charges required for dental care procedures in the same manner
6 that prior authorization is required for other covered diseases or
7 conditions.

8 (b) This section shall apply only to general anesthesia and
9 associated facility charges for only the following enrollees, and
10 only if the enrollees meet the criteria in subdivision (a):

11 (1) Enrollees who are under seven years of age.

12 (2) Enrollees who are developmentally disabled, regardless of
13 age.

14 (3) Enrollees whose health is compromised and for whom
15 general anesthesia is medically necessary, regardless of age.

16 (c) Nothing in this section shall require the health care service
17 plan to cover any charges for the dental procedure itself, including,
18 but not limited to, the professional fee of the dentist. Coverage for
19 anesthesia and associated facility charges pursuant to this section
20 shall be subject to all other terms and conditions of the plan that
21 apply generally to other benefits.

22 (d) Nothing in this section shall be construed to allow a health
23 care service plan to deny coverage for basic health care services,
24 as defined in Section 1345.

25 (e) A health care service plan may include coverage specified
26 in subdivision (a) at any time prior to January 1, ~~2000~~; 2019.

27 SEC. 3. Section 10119.9 of the Insurance Code is amended to
28 read:

29 10119.9. (a) A disability insurance policy or certificate
30 covering hospital, surgical, or medical expenses, that meets the
31 definition of "health benefit plan" in subdivision (a) of Section
32 10198.6, that is issued, amended, renewed, or delivered on or after
33 January 1, ~~2000~~; 2019, shall be deemed to cover general anesthesia
34 and associated facility charges for dental procedures ~~rendered in
35 a hospital or surgery center setting~~, when the clinical status or
36 underlying medical condition of the insured requires dental
37 procedures that ordinarily would not require general ~~anesthesia to
38 be rendered in a hospital or surgery center setting.~~ *anesthesia*. The
39 disability insurance policy or certificate may require prior
40 authorization of general anesthesia and associated charges required

1 for dental care procedures in the same manner that prior
2 authorization is required for other covered diseases or conditions.

3 (b) This section shall apply only to general anesthesia and
4 associated facility charges for only the following insureds, and
5 only if the insureds meet the criteria in subdivision (a):

6 (1) Insureds who are under seven years of age.

7 (2) Insureds who are developmentally disabled, regardless of
8 age.

9 (3) Insureds whose health is compromised and for whom general
10 anesthesia is medically necessary, regardless of age.

11 (c) Nothing in this section shall require insurers to cover any
12 charges for the dental procedure itself, including the professional
13 fee of the dentist. Coverage for anesthesia and associated facility
14 charges pursuant to this section shall be subject to all other terms
15 and conditions of the policy or certificate that apply generally to
16 other benefits.

17 (d) Nothing in this section shall require insurers to cover
18 anesthesia or related facility charges for dental procedures that
19 ordinarily would require general anesthesia and that do not meet
20 the requirements of subdivision (a), (b), or (c).

21 (e) A disability insurance policy may include coverage specified
22 in subdivision (a) at any time prior to January 1, ~~2000~~ 2019.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.