

ASSEMBLY BILL

No. 2193

Introduced by Assembly Member Maienschein

February 12, 2018

An act to add Section 685 to the Business and Professions Code, to add Section 1367.625 to the Health and Safety Code, and to add Section 10123.867 to the Insurance Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2193, as introduced, Maienschein. Maternal mental health.

Existing law provides for the licensure and regulation of various healing arts professions, including, but not limited to, physicians and surgeons, by various boards within the Department of Consumer Affairs. Existing law imposes certain fines and other penalties for, and authorizes these boards to take disciplinary action against licensees for, violations of the provisions governing those professions.

This bill would make it the duty of licensed health care practitioners who treat or attend the mother or child, or both, to screen the mother for maternal mental health conditions, as defined, at least once during pregnancy and once during the postpartum period and to report the findings of the screening to the mother's primary care physician if the health care practitioner is not the mother's primary care physician. The bill would also make it the duty of any facility where those practitioners treat or attend the mother or child, or both, in the first postdelivery appointment to ensure that those practitioners perform the required screening and report the findings. The bill would make a violation of its requirements grounds for disciplinary action by the licensee's licensing entity and would make the facility subject to punishment by

its licensing entity, except that a violation of this requirement would not constitute a crime.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies that provide hospital, medical, or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, of a person of any age.

This bill would require health care service plans and health insurers to develop, by July 1, 2019, a case management program that is available for enrollees and insureds and their treating providers when the provider determines that an enrollee or insured may have a maternal mental health condition, as specified. The bill would require that case management program to meet specified standards and would require plans and insurers to notify providers of the availability of the program and to develop a quality management program in order to understand the effectiveness of the case management program. The bill would require health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2019, to provide coverage for maternal mental health conditions and the above-described case management program. Because a willful violation of the bill's 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 685 is added to the Business and
- 2 Professions Code, to read:
- 3 685. (a) It shall be the duty of any health care practitioner who
- 4 treats or attends a mother or child, or both, to screen the mother

1 for maternal mental health conditions at least once during
2 pregnancy and once during the postpartum period, unless the health
3 care practitioner has received confirmation from a treating
4 psychiatrist that she will remain under the treating psychiatrist's
5 care during pregnancy and the postpartum period, as applicable.
6 The health care practitioner shall, in a manner consistent with
7 applicable federal privacy law, report the findings of that screening
8 to the mother's primary care physician if the health care practitioner
9 is not the mother's primary care physician.

10 (b) It shall be the duty of any facility where a health care
11 practitioner treats or attends the mother or child, or both, in the
12 first postdelivery appointment to ensure that the health care
13 practitioner conducts the screening and reports the findings of the
14 screening as described in subdivision (a).

15 (c) This section shall not be construed to limit when and how
16 often a mother postdelivery is screened for maternal mental health
17 conditions.

18 (d) A violation of subdivision (a) constitutes unprofessional
19 conduct and grounds for disciplinary action by the health care
20 practitioner's licensing entity. A violation of subdivision (a) shall
21 not constitute a crime.

22 (e) A facility subject to subdivision (b) that violates subdivision
23 (b) shall be subject to punishment by the facility's licensing entity,
24 except that a violation of subdivision (b) shall not constitute a
25 crime.

26 (f) Nothing in this section shall prohibit another provider type
27 from screening for maternal mental health conditions.

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

29 (1) "Maternal mental health condition" means a mental health
30 condition that occurs during pregnancy or during the postpartum
31 period and includes, but is not limited to, postpartum depression.

32 (2) "Health care practitioner" means an individual who is
33 certified or licensed pursuant to this division or an initiative act
34 referred to in this division and is acting within his or her scope of
35 practice.

36 SEC. 2. Section 1367.625 is added to the Health and Safety
37 Code, to read:

38 1367.625. (a) By July 1, 2019, a health care service plan shall
39 develop a case management program that is available for an
40 enrollee and his or her treating provider when the provider, acting

1 within his or her scope of practice, determines that the enrollee
2 may have a maternal mental health condition.

3 (b) The case management program required by subdivision (a)
4 shall do all of the following:

5 (1) Provide the provider and enrollee direct support in accessing
6 treatment and, if available, managing care in accordance with the
7 provider’s treatment plan.

8 (2) Provide direct access to a clinician assigned to both the
9 provider and the patient.

10 (3) Support the provider and enrollee in accessing care in a
11 timely manner, consistent with appointment time standards
12 developed pursuant to Section 1367.03, to provide both of the
13 following services:

14 (A) Direct access for the enrollee to a therapist trained in
15 maternal mental health.

16 (B) Direct access for both the provider and enrollee to a
17 provider-to-provider psychiatric consultation with a psychiatrist
18 familiar with the latest research surrounding treatment of pregnant
19 and lactating women.

20 (4) When a treatment plan is available, require clinical case
21 managers in the program to extend the capacity of the enrollee’s
22 provider by following the enrollee’s treatment access, symptoms,
23 and symptom severity, and recommending potential changes to
24 the treatment plan when clinically indicated. A clinical case
25 manager shall also provide written reports on an enrollee’s status
26 to the enrollee’s provider on a periodic basis of no less than once
27 every eight months.

28 (c) Commencing July 1, 2019, and annually thereafter, a health
29 care service plan shall notify providers in writing of the availability
30 of the case management program described in this section and the
31 process by which a provider can access that program.

32 (d) (1) In order to understand the effectiveness of the case
33 management program developed by a plan under this section and
34 to make changes as needed to improve utilization, a health care
35 service plan shall develop a maternal mental health quality
36 management program that tracks all of the following information:

37 (A) The number, ratio, and geographical distance of behavioral
38 providers trained to treat maternal mental health conditions,
39 including therapists and psychiatrists.

1 (B) Case management utilization, including utilization by
2 individual providers.

3 (C) The effectiveness of the program in reducing symptoms.

4 (D) Enrollee and provider satisfaction with the program, if
5 available.

6 (2) The information in paragraph (1) shall be reported to a
7 quality assurance committee of the health care service plan on an
8 annual basis, and the plan shall institute corrective actions when
9 warranted.

10 (e) Nothing in this section shall be construed to prohibit either
11 of the following:

12 (1) A health care service plan from accepting a referral from
13 another treating provider or case management program with respect
14 to a maternal mental health condition.

15 (2) A health care service plan from transferring a case to another
16 case management program designed to treat mental health issues
17 after the postpartum period expires.

18 (f) A health care service plan contract issued, amended, or
19 renewed on or after January 1, 2019, shall provide coverage for
20 maternal mental health conditions and for the case management
21 program developed by the plan under this section. This section
22 shall not apply to a specialized health care service plan contract
23 that does not deliver mental or behavioral health services to
24 enrollees.

25 (g) For the purposes of this section, the following terms have
26 the following meanings:

27 (1) “Case management program” means a collaborative process
28 of assessment, planning, facilitation, care coordination, evaluation,
29 and advocacy for options and services to meet an individual’s and
30 family’s comprehensive health needs through communication and
31 available resources to promote quality, cost-effective outcomes.
32 Case management programs include care management or disease
33 management programs.

34 (2) “Maternal mental health condition” means a mental health
35 condition that occurs during pregnancy or during the postpartum
36 period and includes, but is not limited to, postpartum depression.

37 (3) “Provider” means an individual who is certified or licensed
38 pursuant to Division 2 (commencing with Section 500) of the
39 Business and Professions Code, or an initiative act referred to in
40 that division.

1 SEC. 3. Section 10123.867 is added to the Insurance Code, to
2 read:

3 10123.867. (a) By July 1, 2019, a health insurer shall develop
4 a case management program that is available for an insured and
5 his or her treating provider when the provider, acting within his
6 or her scope of practice, determines that the insured may have a
7 maternal mental health condition.

8 (b) The case management program required by subdivision (a)
9 shall do all of the following:

10 (1) Provide the provider and insured direct support in accessing
11 treatment and, if available, managing care in accordance with the
12 provider's treatment plan.

13 (2) Provide direct access to a clinician assigned to both the
14 provider and the insured.

15 (3) Support the provider and insured in accessing care in a timely
16 manner, consistent with the timely access regulations adopted under
17 Section 10133.5, to provide both of the following services:

18 (A) Direct access for the insured to a therapist trained in
19 maternal mental health.

20 (B) Direct access for both the provider and insured to a
21 provider-to-provider psychiatric consultation with a psychiatrist
22 familiar with the latest research surrounding treatment of pregnant
23 and lactating women.

24 (4) When a treatment plan is available, require clinical case
25 managers in the program to extend the capacity of the insured's
26 provider by following the insured's treatment access, symptoms,
27 and symptom severity, and recommending potential changes to
28 the treatment plan when clinically indicated. A clinical case
29 manager shall also provide written reports on the insured's status
30 to the insured's provider on a periodic basis of no less than once
31 every 8 months.

32 (c) Commencing July 1, 2019, and annually thereafter, a health
33 insurer shall notify providers in writing of the availability of the
34 case management program described in this section and the process
35 by which a provider can access that program.

36 (d) (1) In order to understand the effectiveness of the case
37 management program developed by a health insurer under this
38 section and to make changes as needed to improve utilization, a
39 health insurer shall develop a maternal mental health quality
40 management program that tracks all of the following information:

1 (A) The number, ratio, and geo-distance of behavioral providers
2 trained to treat maternal mental health conditions, including
3 therapists and psychiatrists.

4 (B) Case management utilization, including utilization by
5 individual providers.

6 (C) The effectiveness of the program in reducing symptoms.

7 (D) Insured and provider satisfaction with the program, if
8 available.

9 (2) The information in paragraph (1) shall be reported to a
10 quality assurance committee of the health insurer on an annual
11 basis, and the health insurer shall institute corrective actions when
12 warranted.

13 (e) Nothing in this section shall be construed to prohibit either
14 of the following:

15 (1) A health insurer from accepting a referral from another
16 treating provider or case management program.

17 (2) A health insurer from transferring a case to another case
18 management program designed to treat mental health issues after
19 the postpartum period expires.

20 (f) A health insurance policy issued, amended, or renewed on
21 or after January 1, 2019, shall provide coverage for maternal mental
22 health conditions and for the case management program developed
23 by the insurer under this section. This section shall not apply to a
24 specialized health insurance policy that does not deliver mental or
25 behavioral health services to insureds.

26 (g) For the purposes of this section, the following terms have
27 the following meanings:

28 (1) “Case management program” means a collaborative process
29 of assessment, planning, facilitation, care coordination, evaluation,
30 and advocacy for options and services to meet an individual’s and
31 family’s comprehensive health needs through communication and
32 available resources to promote quality, cost-effective outcomes.
33 Case management programs include care management or disease
34 management programs.

35 (2) “Maternal mental health condition” means a mental health
36 condition that occurs during pregnancy or during the postpartum
37 period and includes, but is not limited to, postpartum depression.

38 (3) “Provider” means an individual who is certified or licensed
39 pursuant to Division 2 (commencing with Section 500) of the

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

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