

**Introduced by Senator Bates
(Coauthor: Senator Wilk)**February 22, 2019

An act to add Section 1367.667 to the Health and Safety Code, and to add Section 10123.837 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as introduced, Bates. Health care coverage: anticancer medical devices.

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 requires health care service plan contracts and health insurance policies to cover certain medical services for particular types of cancer, including the screening, diagnosis, and treatment of breast cancer, and the screening and diagnosis of prostate cancer, if the contract or policy was issued, amended, or renewed after the applicable date.

This bill would require health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2020, that cover chemotherapy or radiation therapy for the treatment of cancer to also cover anticancer medical devices. The bill would define "anticancer medical device" as a medical device that has been approved for marketing by the federal Food and Drug Administration or is exempt from that approval, is primarily designed to be used outside of a medical facility, and has been prescribed by an authorized provider upon the provider's determination that the device is medically reasonable and necessary for the treatment of the patient's cancer. Because a violation

of this bill’s provisions 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 1367.667 is added to the Health and
2 Safety Code, immediately following Section 1367.665, to read:

3 1367.667. (a) Every health care service plan contract issued,
4 amended, or renewed in this state on or after January 1, 2020, that
5 provides coverage for chemotherapy or radiation therapy for the
6 treatment of cancer, shall also provide coverage for anticancer
7 medical devices.

8 (b) For purposes of this section, “anticancer medical device”
9 means a medical device, including component parts, services, and
10 supplies necessary for the effective use of the device, that meets
11 all of the following criteria:

12 (1) The device has been cleared or approved for marketing by
13 the federal Food and Drug Administration, if that clearance or
14 approval is required by law.

15 (2) The device is primarily and substantially designed for use
16 outside of a medical treatment facility, or use for which
17 reimbursement is not ordinarily provided as incident to a provider’s
18 professional service or as part of a provider’s fee for service.

19 (3) The device is prescribed by a provider authorized to prescribe
20 that device for the treatment of cancer, upon a determination by
21 the provider that the device is medically reasonable and necessary
22 for the treatment of the patient.

23 SEC. 2. Section 10123.837 is added to the Insurance Code,
24 immediately following Section 10123.835, to read:

25 10123.837. (a) Every policy of disability insurance that covers
26 hospital, medical, or surgical expenses that is issued, amended, or
27 renewed in this state on or after January 1, 2020, and provides
28 coverage for chemotherapy or radiation therapy for the treatment

1 of cancer, shall also provide coverage for anticancer medical
2 devices.

3 (b) For purposes of this section, “anticancer medical device”
4 means a medical device, including component parts, services, and
5 supplies necessary for the effective use of the device, that meets
6 all of the following criteria:

7 (1) The device has been cleared or approved for marketing by
8 the federal Food and Drug Administration, if that clearance or
9 approval is required by law.

10 (2) The device is primarily and substantially designed for use
11 outside of a medical treatment facility, or use for which
12 reimbursement is not ordinarily provided as incident to a provider’s
13 professional service or as part of a provider’s fee for service.

14 (3) The device is prescribed by a provider authorized to prescribe
15 that device for the treatment of cancer, upon a determination by
16 the provider that the device is medically reasonable and necessary
17 for the treatment of the patient.

18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.