

Introduced by Senator LeyvaFebruary 17, 2021

An act to add Section 22856 to the Government Code, to amend Section 1367.25 of the Health and Safety Code, to amend Section 10123.196 of the Insurance Code, and to add Section 10509.5 to the Public Contract Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 523, as introduced, Leyva. Health care coverage: contraceptives.

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 provides for the regulation of health insurers by the Department of Insurance. Existing law establishes health care coverage requirements for contraceptives, including, but not limited to, requiring a health care service plan, including a Medi-Cal managed care plan, or a health insurance policy issued, amended, renewed, or delivered on or after January 1, 2017, to cover up to a 12-month supply of federal Food and Drug Administration approved, self-administered hormonal contraceptives when dispensed at one time for an enrollee or insured by a provider or pharmacist, or at a location licensed or authorized to dispense drugs or supplies.

This bill, the Contraceptive Equity Act of 2021, would make various changes to expand coverage of contraceptives by a health care service plan contract or health insurance policy issued, amended, renewed, or delivered on and after January 1, 2022, including requiring a health care service plan or health insurer to provide point-of-sale coverage for over-the-counter FDA-approved contraceptive drugs, devices, and products at in-network pharmacies without cost-sharing or medical

management restrictions and to reimburse enrollees and insureds for out-of-pocket costs for over-the-counter birth control methods purchased at any out-of-network pharmacy in California, without medical management restrictions. The bill would also require coverage for clinical services related to the provision or use of contraception, as specified. The bill would revise provisions applicable when a covered, therapeutic equivalent of a drug, device, or product is deemed medically inadvisable by deferring to the attending provider, as specified.

With respect to religious employers, this bill would authorize an enrollee or insured to submit a request to the health care service plan or health insurer if the employer elects not to purchase coverage for contraceptive methods, as required by existing law. The bill would require the applicable department to reimburse a religious employer for the contraceptive care and related products provided to the employee, as specified. The bill would prohibit the employer from discriminating or retaliating against the employee for independently obtaining contraceptives outside of the employer’s plan under this authorization.

This bill would prohibit the Board of Public Relations of the Public Employees’ Retirement System and the University of California from approving or renewing a health benefit plan that does not comply with the contraceptive coverage requirements of the bill and existing law described above, on and after January 1, 2022.

Because a willful violation of the bill’s requirements 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. This act shall be known, and may be cited, as the
- 2 Contraceptive Equity Act of 2021.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) California has a long history of expanding timely access to
- 5 birth control to prevent unintended pregnancy. Thanks to a

1 combination of innovative policies and programs enacted statewide,
2 unintended pregnancy rates are at a 30-year low.

3 (b) Despite the progress made, health disparities in reproductive
4 health outcomes persist among Black, Indigenous and People of
5 Color, including disproportionate unintended pregnancy, infant
6 and maternal mortality, and (STD) rates. The legislature must take
7 action to ensure that all Californians have equitable access to
8 preventive contraceptive care.

9 (c) The federal Patient Protection and Affordable Care Act
10 (Public Law 111-148) included a mandate that most health
11 insurance plans cover contraception without out-of-pocket costs
12 for patients.

13 (d) California’s Contraceptive Coverage Equity Act of 2014
14 and the Annual Supply of Contraceptives Act of 2016, built on
15 this federal policy and existing state law to be the first state in the
16 country to require coverage of birth control methods approved by
17 the federal Food and Drug Administration for women without
18 cost-sharing or restrictions and a 12-month supply of
19 self-administered birth control dispensed at one time for individuals
20 enrolled in health insurance plans and policies regulated by the
21 Keene Health Care Service Act of 1975.

22 (e) Since 2014, several other states have expanded on
23 California’s model legislation to create more equitable
24 contraceptive coverage and access by requiring most health
25 insurance plans and policies to cover voluntary sterilization services
26 and all birth control methods available over-the-counter without
27 a prescription for all beneficiaries, regardless of gender.

28 (f) A report by the Guttmacher Institute shows that vasectomy
29 is among the most effective – and cost-effective contraceptive
30 methods available.

31 (g) Trump-era attacks on birth control access have underscored
32 the need to codify the expansion of contraceptive coverage for as
33 many Californians as possible under state law.

34 (h) The COVID-19 public health emergency has also further
35 illuminated the structural inequities that disproportionately affect
36 youth, low-income people and communities of color in accessing
37 birth control services. A report by the Guttmacher Institute revealed
38 that 29 percent of White women, 38 percent of Black women and
39 45 percent of Latinas now face difficulties accessing birth control
40 as a result of the pandemic.

1 (i) The COVID-19 pandemic has exacerbated rates of sexually
2 transmitted diseases STDs in California and across the country
3 that were already skyrocketing to epidemic proportions prior to
4 the public health emergency. Condoms are the only birth control
5 method that also reduce STD transmission rates.

6 (j) The Legislature intends to reduce sexual and reproductive
7 health disparities and ensure greater health equity by providing a
8 pathway for more Californians to get the contraceptive care they
9 want, when they need it – without inequitable delays or cost
10 barriers. This includes a pathway to no-cost coverage for
11 Californians whose employer-based health insurance plan may
12 exclude contraceptive care under existing California law.

13 (k) The Legislature intends for the relevant California
14 departments and agencies to work in concert to ensure compliance
15 with these provisions.

16 SEC. 3. Section 22856 is added to the Government Code, to
17 read:

18 22856. Notwithstanding any other law, commencing January
19 1, 2022, the board shall not approve a health benefit plan contract
20 for employees that does not comply with the contraceptive
21 coverage requirements of Section 1367.25 of the Health and Safety
22 Code, Section 10123.196 of the Insurance Code, and Senate Bill
23 No. 999 (Ch. 499, Stats. 2016).

24 SEC. 4. Section 1367.25 of the Health and Safety Code is
25 amended to read:

26 1367.25. (a) A group health care service plan contract, except
27 for a specialized health care service plan contract, that is issued,
28 amended, renewed, or delivered on or after January 1, 2000, to
29 December 31, 2015, inclusive, and an individual health care service
30 plan contract that is amended, renewed, or delivered on or after
31 January 1, 2000, to December 31, 2015, inclusive, except for a
32 specialized health care service plan contract, shall provide coverage
33 for the following, under general terms and conditions applicable
34 to all benefits:

35 (1) A health care service plan contract that provides coverage
36 for outpatient prescription drug benefits shall include coverage for
37 a variety of federal Food and Drug Administration (FDA)-approved
38 prescription contraceptive methods designated by the plan. In the
39 event the patient's participating provider, acting within ~~his or her~~
40 *the provider's* scope of practice, determines that none of the

1 methods designated by the plan is medically appropriate for the
2 patient’s medical or personal history, the plan shall also provide
3 coverage for another FDA-approved, medically appropriate
4 prescription contraceptive method prescribed by the patient’s
5 provider.

6 (2) Benefits for an enrollee under this subdivision shall be the
7 same for an enrollee’s covered spouse and covered nonspouse
8 dependents.

9 (b) (1) A health care service plan contract, except for a
10 specialized health care service plan contract, that is issued,
11 amended, renewed, or delivered on or after January 1, 2016, shall
12 provide coverage for all of the following services and contraceptive
13 methods ~~for women~~: *all subscribers and enrollees*:

14 (A) Except as provided in subparagraphs (B) and (C) of
15 paragraph (2), all FDA-approved contraceptive drugs, devices,
16 and other ~~products for women~~, *products*, including all
17 FDA-approved contraceptive drugs, devices, and products available
18 over the counter, ~~as prescribed by the enrollee’s provider~~: *counter*
19 *without a prescription, as follows*:

20 (i) *A health care service plan shall not require a prescription*
21 *to trigger coverage of over-the-counter FDA-approved*
22 *contraceptive drugs, devices, and products.*

23 (ii) *A health care service plan is required to provide*
24 *point-of-sale coverage for over-the-counter FDA-approved*
25 *contraceptive drugs, devices, and products at in-network*
26 *pharmacies without cost-sharing or medical management*
27 *restrictions and reimburse enrollees for out-of-pocket costs for*
28 *over-the-counter birth control methods purchased at any*
29 *out-of-network pharmacy in California without medical*
30 *management restrictions.*

31 (iii) *A health care service plan may limit the frequency and*
32 *define quantities with which the coverage required under this*
33 *subparagraph is provided.*

34 (B) Voluntary sterilization procedures.

35 ~~(C) Patient education and counseling on contraception.~~

36 (C) *Clinical services related to the provision or use of*
37 *contraception, including consultations, examinations, procedures,*
38 *ultrasound, anesthesia, patient education, and counseling.*

39 (D) Followup services related to the drugs, devices, products,
40 and procedures covered under this subdivision, including, but not

1 limited to, management of side effects, counseling for continued
2 adherence, and device insertion and removal.

3 (2) (A) ~~Except for a grandfathered health plan, a~~ A health care
4 service plan subject to this subdivision shall not impose a
5 deductible, coinsurance, copayment, or any other cost-sharing
6 requirement on the coverage provided pursuant to this ~~subdivision.~~
7 *subdivision, except for a grandfathered health plan or a qualifying*
8 *health plan for a health savings account. For a qualifying health*
9 *plan for a health savings account, the carrier shall establish the*
10 *plan's cost-sharing for the coverage required pursuant to this*
11 *subdivision at the minimum level necessary to preserve the*
12 *enrollee's ability to claim tax-exempt contributions and*
13 *withdrawals from the enrollee's health savings account under*
14 *Internal Revenue Service laws and regulations. Cost sharing shall*
15 *not be imposed on any Medi-Cal beneficiary.*

16 (B) If the FDA has approved one or more therapeutic equivalents
17 of a contraceptive drug, device, or product, a health care service
18 plan is not required to cover all of those therapeutically equivalent
19 versions in accordance with this subdivision, as long as at least
20 one is covered without cost sharing in accordance with this
21 subdivision. *If there is no therapeutically equivalent generic*
22 *substitute available in the market, a health care service plan is*
23 *required to provide coverage without cost sharing for the original,*
24 *brand name contraceptive.*

25 (C) If a covered therapeutic equivalent of a drug, device, or
26 product ~~is not available, or is deemed medically inadvisable by~~
27 the enrollee's provider, a health care service plan ~~shall provide~~
28 coverage, subject to a plan's utilization management procedures,
29 for the prescribed contraceptive drug, device, or product without
30 cost sharing. ~~Any shall defer to the determination and judgment~~
31 *of the attending provider and provide coverage for the alternative*
32 *prescribed contraceptive drug, device, product, or service without*
33 *imposing any cost-sharing requirements. Medical inadvisability*
34 *may include considerations such as severity of side effects,*
35 *differences in permanence or reversibility of contraceptives and*
36 *ability to adhere to the appropriate use of the drug or item, as*
37 *determined by the attending provider. The department shall*
38 *promulgate regulations establishing an easily accessible,*
39 *transparent, and sufficiently expedient process that is not unduly*
40 *burdensome, including timeframes, for an enrollee, an enrollee's*

1 *designee, or an enrollee’s provider to request coverage of an*
2 *alternative prescribed contraceptive. A request by a contracting*
3 *provider shall be responded to by the health care service plan in*
4 *compliance with the Knox-Keene Health Care Service Plan Act*
5 *of 1975, as set forth in this chapter and, as applicable, with the*
6 *plan’s Medi-Cal managed care contract.*

7 (3) Except as otherwise authorized under this section, a health
8 care service plan *shall not infringe upon an enrollee’s choice of*
9 *contraceptive drug, device, or product and shall not impose any*
10 *restrictions or delays on the coverage required under this*
11 ~~subdivision.~~ *subdivision, including prior authorization, step*
12 *therapy, or other utilization control techniques.*

13 (4) Benefits for an enrollee under this subdivision shall be the
14 same for an enrollee’s covered spouse and covered nonspouse
15 dependents.

16 (5) For purposes of ~~paragraphs (2) and (3) of this subdivision,~~
17 ~~and subdivision (d),~~ *this subdivision, “health care service plan”*
18 *shall include Medi-Cal managed care plans that contract with the*
19 *State Department of Health Care Services pursuant to Chapter 7*
20 *(commencing with Section 14000) and Chapter 8 (commencing*
21 *with Section 14200) of Part 3 of Division 9 of the Welfare and*
22 *Institutions Code.*

23 (c) Notwithstanding any other provision of this section, a
24 religious employer may request a health care service plan contract
25 without coverage for FDA-approved contraceptive methods that
26 are contrary to the religious employer’s religious tenets. If so
27 requested, a health care service plan contract shall be provided
28 without coverage for contraceptive methods. *The exclusion from*
29 *coverage under this provision shall not apply to a contraceptive*
30 *drug, device, procedure, or other product that is used for purposes*
31 *other than contraception.*

32 (1) For purposes of this section, a “religious employer” is an
33 entity for which each of the following is true:

34 (A) The inculcation of religious values is the purpose of the
35 entity.

36 (B) The entity primarily employs persons who share the religious
37 tenets of the entity.

38 (C) The entity serves primarily persons who share the religious
39 tenets of the entity.

1 (D) The entity is a nonprofit organization as described in Section
2 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as
3 amended.

4 ~~(2) Every religious employer that invokes the exemption~~
5 ~~provided under this section shall provide written notice to~~
6 ~~prospective enrollees prior to enrollment with the plan, listing the~~
7 ~~contraceptive health care services the employer refuses to cover~~
8 ~~for religious reasons.~~

9 *(2) If a religious employer makes an election under this section*
10 *not to purchase coverage for contraceptive methods, all of the*
11 *following shall apply:*

12 *(A) The religious employer shall provide written notice to*
13 *prospective enrollees prior to enrollment with the plan, listing the*
14 *contraceptive health care services the employer refuses to cover*
15 *for religious reasons.*

16 *(B) An employee may submit a request for no-cost contraceptive*
17 *care coverage to the health care service plan, drugs, devices,*
18 *products, and procedures. If a request is received, the health care*
19 *service plan shall provide no-cost contraceptive coverage following*
20 *the requirements of this section and provisions outlined in Senate*
21 *Bill No. 999 (Ch. 499, Stats. 2016).*

22 *(C) The health care service plan shall be reimbursed by the*
23 *state for contraceptive care, services, drugs, devices, products,*
24 *and procedures provided to employees under this provision. This*
25 *subparagraph shall cease to be implemented on July 1, 2023,*
26 *unless the department determines that date may be extended based*
27 *on utilization demand and need, and subject to an appropriation*
28 *by the Legislature for that purpose.*

29 *(D) A religious employer that invokes the exemption under this*
30 *subparagraph may not discriminate, fire, or enforce other*
31 *workplace punishment against an employee based on the*
32 *employee's decision to independently obtain contraceptive*
33 *coverage, care, or prescriptions outside of the employer-based*
34 *plan.*

35 (d) (1) Every health care service plan contract that is issued,
36 amended, renewed, or delivered on or after January 1, 2017, shall
37 cover up to a 12-month supply of FDA-approved, self-administered
38 hormonal contraceptives when dispensed or furnished at one time
39 for an enrollee by a provider, pharmacist, or at a location licensed
40 or otherwise authorized to dispense drugs or supplies.

1 (2) ~~Nothing in this~~ This subdivision shall *not* be construed to
2 require a health care service plan contract to cover contraceptives
3 provided by an out-of-network provider, pharmacy, or location
4 licensed or otherwise authorized to dispense drugs or supplies,
5 except as may be otherwise authorized by state or federal law or
6 by the plan’s policies governing out-of-network coverage.

7 (3) ~~Nothing in this~~ This subdivision shall *not* be construed to
8 require a provider to prescribe, furnish, or dispense 12 months of
9 self-administered hormonal contraceptives at one time.

10 (4) A health care service plan subject to this subdivision, in the
11 absence of clinical contraindications, shall not impose utilization
12 controls or other forms of medical management limiting the supply
13 of FDA-approved, self-administered hormonal contraceptives that
14 may be dispensed or furnished by a provider or pharmacist, or at
15 a location licensed or otherwise authorized to dispense drugs or
16 supplies to an amount that is less than a 12-month supply.

17 (e) This section shall not be construed to exclude coverage for
18 contraceptive supplies as prescribed by a provider, acting within
19 ~~his or her~~ *the provider’s* scope of practice, for reasons other than
20 contraceptive purposes, such as decreasing the risk of ovarian
21 cancer or eliminating symptoms of menopause, or for contraception
22 that is necessary to preserve the life or health of an enrollee.

23 (f) This section shall not be construed to deny or restrict ~~in any~~
24 ~~way~~ the department’s authority to ensure plan compliance with
25 this chapter when a plan provides coverage for contraceptive drugs,
26 devices, and products.

27 (g) This section shall not be construed to require an individual
28 or group health care service plan contract to cover experimental
29 or investigational treatments.

30 (h) For purposes of this section, the following definitions apply:

31 (1) “Grandfathered health plan” has the meaning set forth in
32 Section 1251 of PPACA.

33 (2) “PPACA” means the federal Patient Protection and
34 Affordable Care Act (Public Law 111-148), as amended by the
35 federal Health Care and Education Reconciliation Act of 2010
36 (Public Law 111-152), and any rules, regulations, or guidance
37 issued thereunder.

38 (3) With respect to health care service plan contracts issued,
39 amended, or renewed on or after January 1, 2016, “provider” means
40 an individual who is certified or licensed pursuant to Division 2

1 (commencing with Section 500) of the Business and Professions
 2 Code, or an initiative act referred to in that division, or Division
 3 2.5 (commencing with Section 1797) of this code.

4 (i) *The changes made to this section by the act that added this*
 5 *subdivision apply only to a health care service plan contract that*
 6 *is issued, amended, renewed, or delivered on or after January 1,*
 7 *2022.*

8 SEC. 5. Section 10123.196 of the Insurance Code is amended
 9 to read:

10 10123.196. (a) An individual or group policy of disability
 11 insurance issued, amended, renewed, or delivered on or after
 12 January 1, 2000, through December 31, 2015, inclusive, that
 13 provides coverage for hospital, medical, or surgical expenses, shall
 14 provide coverage for the following, under the same terms and
 15 conditions as applicable to all benefits:

16 (1) A disability insurance policy that provides coverage for
 17 outpatient prescription drug benefits shall include coverage for a
 18 variety of federal Food and Drug Administration (FDA)-approved
 19 prescription contraceptive methods, as designated by the insurer.
 20 If an insured's health care provider determines that none of the
 21 methods designated by the disability insurer is medically
 22 appropriate for the insured's medical or personal history, the insurer
 23 shall, in the alternative, provide coverage for some other
 24 FDA-approved prescription contraceptive method prescribed by
 25 the patient's health care provider.

26 (2) Coverage with respect to an insured under this subdivision
 27 shall be identical for an insured's covered spouse and covered
 28 nonspouse dependents.

29 (b) (1) A group or individual policy of disability insurance,
 30 except for a specialized health insurance policy, that is issued,
 31 amended, renewed, or delivered on or after January 1, 2016, shall
 32 provide coverage for all of the following services and contraceptive
 33 methods for ~~women~~: *all policyholders and insureds*:

34 (A) Except as provided in subparagraphs (B) and (C) of
 35 paragraph (2), all FDA-approved, contraceptive drugs, devices,
 36 and other ~~products for women~~, *products*, including all
 37 FDA-approved, contraceptive drugs, devices, and products
 38 available over the counter, ~~as prescribed by the insured's provider.~~
 39 *counter without a prescription, as follows:*

1 (i) A health insurer shall not require a prescription to trigger
2 coverage of over-the-counter FDA-approved contraceptive drugs,
3 devices, and products.

4 (ii) A health insurer is required to provide point-of-sale
5 coverage for over-the-counter FDA-approved contraceptive drugs,
6 devices, and products at in-network pharmacies without
7 cost-sharing or medical management restrictions and reimburse
8 insureds for out-of-pocket costs for over-the-counter birth control
9 methods purchased at any out-of-network pharmacy in California
10 without medical management restrictions.

11 (iii) A health care insurer may limit the frequency and define
12 quantities with which the coverage required under this
13 subparagraph is provided.

14 (B) Voluntary sterilization procedures.

15 ~~(C) Patient education and counseling on contraception.~~

16 (C) Clinical services related to the provision or use of
17 contraception, including consultations, examinations, procedures,
18 ultrasound, anesthesia, patient education, and counseling.

19 (D) Followup services related to the drugs, devices, products,
20 and procedures covered under this subdivision, including, but not
21 limited to, management of side effects, counseling for continued
22 adherence, and device insertion and removal.

23 (2) (A) ~~Except for a grandfathered health plan, a~~ A disability
24 insurer subject to this subdivision shall not impose a deductible,
25 coinsurance, copayment, or any other cost-sharing requirement on
26 the coverage provided pursuant to this ~~subdivision.~~ subdivision,
27 *except for a grandfathered health plan or a qualifying health plan*
28 *for a health savings account. For a qualifying health plan for a*
29 *health savings account, the carrier shall establish the plan's*
30 *cost-sharing for the coverage required pursuant to this subdivision*
31 *at the minimum level necessary to preserve the insured's ability*
32 *to claim tax exempt contributions and withdrawals from the*
33 *insured's health savings account under Internal Revenue Service*
34 *laws and regulations.*

35 (B) If the FDA has approved one or more therapeutic equivalents
36 of a contraceptive drug, device, or product, a disability insurer is
37 not required to cover all of those therapeutically equivalent versions
38 in accordance with this subdivision, as long as at least one is
39 covered without cost sharing in accordance with this subdivision.
40 *If there is no therapeutically equivalent generic substitute available*

1 *in the market, a health care service plan is required to provide*
2 *coverage without cost sharing for the original, brand name*
3 *contraceptive.*

4 (C) If a covered therapeutic equivalent of a drug, device, or
5 ~~product is not available, or is deemed medically inadvisable by~~
6 ~~the insured's provider, a disability insurer shall provide coverage,~~
7 ~~subject to an insurer's utilization management procedures, for the~~
8 ~~prescribed contraceptive drug, device, or product without cost~~
9 ~~sharing. Any defer to the determination and judgment of the~~
10 *attending provider and provide coverage for the alternative*
11 *prescribed contraceptive drug, device, product, or service without*
12 *imposing any cost-sharing requirements. Medical inadvisability*
13 *may include considerations such as severity of side effects,*
14 *differences in permanence or reversibility of contraceptives and*
15 *ability to adhere to the appropriate use of the drug or item, as*
16 *determined by the attending provider. The department shall*
17 *promulgate regulations establishing an easily accessible,*
18 *transparent, and sufficiently expedient process that is not unduly*
19 *burdensome, including timeframes, for an insured, an insured's*
20 *designee or an insured's provider to request coverage of an*
21 *alternative prescribed contraceptive. A request by a contracting*
22 *provider shall be responded to by the disability insurer in*
23 *compliance with Section 10123.191.*

24 (3) Except as otherwise authorized under this section, an insurer
25 *shall not infringe upon an insured's choice of contraceptive drug,*
26 *device, or product and shall not impose any restrictions or delays*
27 *on the coverage required under this ~~subdivision.~~ subdivision,*
28 *including prior authorization, step therapy, or other utilization*
29 *control techniques.*

30 (4) Coverage with respect to an insured under this subdivision
31 shall be identical for an insured's covered spouse and covered
32 nonspouse dependents.

33 (c) This section shall not be construed to deny or restrict in any
34 way any existing right or benefit provided under law or by contract.
35 *The exclusion from coverage under this provision shall not apply*
36 *to a contraceptive drug, device, procedure, or other product that*
37 *is used for purposes other than contraception.*

38 (d) This section shall not be construed to require an individual
39 or group disability insurance policy to cover experimental or
40 investigational treatments.

1 (e) Notwithstanding any other provision of this section, a
2 religious employer may request a disability insurance policy
3 without coverage for contraceptive methods that are contrary to
4 the religious employer’s religious tenets. If so requested, a
5 disability insurance policy shall be provided without coverage for
6 contraceptive methods.

7 (1) For purposes of this section, a “religious employer” is an
8 entity for which each of the following is true:

9 (A) The inculcation of religious values is the purpose of the
10 entity.

11 (B) The entity primarily employs persons who share the religious
12 tenets of the entity.

13 (C) The entity serves primarily persons who share the religious
14 tenets of the entity.

15 (D) The entity is a nonprofit organization pursuant to Section
16 6033(a)(3)(A)(i) or (iii) of the Internal Revenue Code of 1986, as
17 amended.

18 ~~(2) Every religious employer that invokes the exemption
19 provided under this section shall provide written notice to any
20 prospective employee once an offer of employment has been made,
21 and prior to that person commencing that employment, listing the
22 contraceptive health care services the employer refuses to cover
23 for religious reasons.~~

24 *(2) If a religious employer makes an election under this section
25 not to purchase coverage for contraceptive methods, all of the
26 following shall apply:*

27 *(A) The religious employer shall provide written notice to
28 prospective insured prior to enrollment with the plan, listing the
29 contraceptive health care services the employer refuses to cover
30 for religious reasons.*

31 *(B) An employee may submit a request for no-cost contraceptive
32 care coverage to the disability insurer, drugs, devices, products,
33 and procedures. If a request is received, the health care service
34 plan shall provide no-cost contraceptive coverage following the
35 requirements of this section and provisions outlined in Senate Bill
36 No. 999 (Ch. 499, Stats. 2016).*

37 *(C) The health care service plan shall be reimbursed by the
38 state for contraceptive care, services, drugs, devices, products,
39 and procedures provided to employees under this provision. This
40 subparagraph shall cease to be implemented on July 1, 2023,*

1 *unless the department determines that date may be extended based*
2 *on utilization demand and need, and subject to an appropriation*
3 *by the Legislature for that purpose.*

4 (D) *A religious employer that invokes the exemption under this*
5 *subparagraph may not discriminate, fire, or enforce other*
6 *workplace punishment against an employee based on the*
7 *employee's decision to independently obtain contraceptive*
8 *coverage, care, or prescriptions outside of the employer-based*
9 *plan.*

10 (f) (1) A group or individual policy of disability insurance,
11 except for a specialized health insurance policy, that is issued,
12 amended, renewed, or delivered on or after January 1, 2017, shall
13 cover up to a 12-month supply of FDA-approved, self-administered
14 hormonal contraceptives when dispensed or furnished at one time
15 for an insured by a provider, pharmacist, or at a location licensed
16 or otherwise authorized to dispense drugs or supplies.

17 (2) ~~Nothing in this subdivision shall~~ *This subdivision shall not*
18 *be construed to require a policy to cover contraceptives provided*
19 *by an out-of-network provider, pharmacy, or location licensed or*
20 *otherwise authorized to dispense drugs or supplies, except as may*
21 *be otherwise authorized by state or federal law or by the insurer's*
22 *policies governing out-of-network coverage.*

23 (3) ~~Nothing in this subdivision shall~~ *This subdivision shall not*
24 *be construed to require a provider to prescribe, furnish, or dispense*
25 *12 months of self-administered hormonal contraceptives at one*
26 *time.*

27 (4) A health insurer subject to this subdivision, in the absence
28 of clinical contraindications, shall not impose utilization controls
29 or other forms of medical management limiting the supply of
30 FDA-approved, self-administered hormonal contraceptives that
31 may be dispensed or furnished by a provider or pharmacist, or at
32 a location licensed or otherwise authorized to dispense drugs or
33 supplies to an amount that is less than a 12-month supply.

34 (g) This section shall not be construed to exclude coverage for
35 contraceptive supplies as prescribed by a provider, acting within
36 ~~his or her~~ *the provider's* scope of practice, for reasons other than
37 contraceptive purposes, such as decreasing the risk of ovarian
38 cancer or eliminating symptoms of menopause, or for contraception
39 that is necessary to preserve the life or health of an insured.

1 (h) This section only applies to disability insurance policies or
2 contracts that are defined as health benefit plans pursuant to
3 subdivision (a) of Section 10198.6, except that for accident only,
4 specified disease, or hospital indemnity coverage, coverage for
5 benefits under this section applies to the extent that the benefits
6 are covered under the general terms and conditions that apply to
7 all other benefits under the policy or contract. This section shall
8 not be construed as imposing a new benefit mandate on accident
9 only, specified disease, or hospital indemnity insurance.

10 (i) For purposes of this section, the following definitions apply:

11 (1) “Grandfathered health plan” has the meaning set forth in
12 Section 1251 of PPACA.

13 (2) “PPACA” means the federal Patient Protection and
14 Affordable Care Act (Public Law 111-148), as amended by the
15 federal Health Care and Education Reconciliation Act of 2010
16 (Public Law 111-152), and any rules, regulations, or guidance
17 issued thereunder.

18 (3) With respect to policies of disability insurance issued,
19 amended, or renewed on or after January 1, 2016, “health care
20 provider” means an individual who is certified or licensed pursuant
21 to Division 2 (commencing with Section 500) of the Business and
22 Professions Code, or an initiative act referred to in that division,
23 or Division 2.5 (commencing with Section 1797) of the Health
24 and Safety Code.

25 (j) *The changes made to this section by the act that added this*
26 *subdivision apply only to a health insurance policy that is issued,*
27 *amended, renewed, or delivered on or after January 1, 2022.*

28 SEC. 6. Section 10509.5 is added to the Public Contract Code,
29 to read:

30 10509.5. Notwithstanding any other law, commencing January
31 1, 2022, the University of California shall not approve a health
32 benefit plan contract for employees that does not comply with the
33 contraceptive coverage requirements of Section 1367.25 of the
34 Health and Safety Code, Section 10123.196 of the Insurance Code,
35 and Senate Bill No. 999 (Ch. 499, Stats. 2016).

36 SEC. 7. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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