An act to amend Section 1374.55 of the Health and Safety Code, and to amend Section 10119.6 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 460, as introduced, Ammiano. Health care coverage: infertility.

(1) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the 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 also imposes various requirements and restrictions on health care service plans and health insurers, including, among other things, a requirement that every health care service plan contract or health insurance policy that is issued, amended, or renewed on or after January 1, 1990, offer coverage for the treatment of infertility, except in vitro fertilization, under those terms and conditions as may be agreed upon between the group subscriber or the group policyholder and the plan or the insurer, except as provided.

This bill would require that the coverage for the treatment of infertility be offered and provided without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation. Because a willful
violation of the bill’s provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

(2) 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.


The people of the State of California do enact as follows:

SECTION 1. Section 1374.55 of the Health and Safety Code is amended to read:

1374.55. (a) On and after January 1, 1990, every health care service plan contract—
that covers hospital, medical, or surgical expenses on a group basis,
where the plan is not a health maintenance organization as defined
in Section 1373.10, shall offer coverage for the treatment of
infertility, except in vitro fertilization, under those terms and
conditions as may be agreed upon between the group subscriber
and the plan. Every plan shall communicate the availability of that
coverage to all group contractholders and to all prospective group
contractholders with whom they are negotiating.

(b) For purposes of this section, “infertility” means either (1)
the presence of a demonstrated condition recognized by a licensed
physician and surgeon as a cause of infertility, or (2) the inability
to conceive a pregnancy or to carry a pregnancy to a live birth after
a year or more of regular sexual relations without contraception.
“Treatment for infertility” means procedures consistent with
established medical practices in the treatment of infertility by
licensed physicians and surgeons including, but not limited to,
diagnosis, diagnostic tests, medication, surgery, and gamete
intrafallopian transfer. “In vitro fertilization” means the laboratory
medical procedures involving the actual in vitro fertilization
process.

(c) On and after January 1, 1990, every health care service plan

which issues, renews, or amends a health care service plan contract that provides group coverage for hospital,
medical, or surgical expenses shall offer the coverage specified in subdivi
don (a), according to the terms and conditions that may be agreed upon between the group subscriber and the plan to group contractholders with at least 20 employees to whom the plan is offered. The plan shall communicate the availability of the coverage to those group contractholders and prospective group contractholders with whom the plan is negotiating.

(d) Nothing in this section shall not be construed to deny or restrict in any way any existing right or benefit to coverage and treatment of infertility under an existing law, plan, or policy.

(e) Nothing in this section shall not be construed to require any employer that is a religious organization to offer coverage for forms of treatment of infertility in a manner inconsistent with the religious organization’s religious and ethical principles.

(f) Nothing in this section shall not be construed to require any plan, which is a subsidiary of an entity whose owner or corporate member is a religious organization, to offer coverage for treatment of infertility in a manner inconsistent with that religious organization’s religious and ethical principles.

For purposes of this subdivision, “subsidiary” of a specified corporation means a corporation more than 45 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

(g) Coverage for the treatment of infertility shall be offered and provided without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation.

SEC. 2. Section 10119.6 of the Insurance Code is amended to read:

10119.6. (a) On and after January 1, 1990, every insurer issuing, renewing, or amending a policy of disability insurance which that covers hospital, medical, or surgical expenses on a group basis shall offer coverage of infertility treatment, except in vitro fertilization, under those terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of that coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.
(b) For purposes of this section, “infertility” means either (1) the presence of a demonstrated condition recognized by a licensed physician and surgeon as a cause of infertility, or (2) the inability to conceive a pregnancy or to carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception. “Treatment for infertility” means procedures consistent with established medical practices in the treatment of infertility by licensed physicians and surgeons, including, but not limited to, diagnosis, diagnostic tests, medication, surgery, and gamete intrafallopian transfer. “In vitro fertilization” means the laboratory medical procedures involving the actual in vitro fertilization process.

(c) Nothing in this section shall not be construed to deny or restrict in any way any existing right or benefit to coverage and treatment of infertility under an existing law, plan, or policy.

(d) Nothing in this section shall not be construed to require any employer that is a religious organization to offer coverage for forms of treatment of infertility in a manner inconsistent with the religious organization’s religious and ethical principles.

(e) Nothing in this section shall not be construed to require any insurer, which is a subsidiary of an entity whose owner or corporate member is a religious organization, to offer coverage for treatment of infertility in a manner inconsistent with that religious organization’s religious and ethical principles.

For purposes of this subdivision, “subsidiary” of a specified corporation means a corporation more than 45 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

(f) This section applies to every disability insurance policy which is issued, amended, or renewed to residents of this state regardless of the situs of the contract.

(g) Coverage for the treatment of infertility shall be offered and provided without discrimination on the basis of age, ancestry, color, disability, domestic partner status, gender, gender expression, gender identity, genetic information, marital status, national origin, race, religion, sex, or sexual orientation.

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