

ASSEMBLY BILL

No. 843

Introduced by Assembly Member Garcia

February 19, 2025

An act to amend Sections 1367.04, 1367.041, 1367.042, and 1367.07 of, and to add Section 1367.071 to, the Health and Safety Code, and to amend Sections 10133.8, 10133.9, 10133.10, and 10133.11 of, and to add Section 10133.91 to, the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL’S DIGEST

AB 843, as introduced, Garcia. Health care coverage: language access.

(1) 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, which is under the control of the Insurance Commissioner. Existing law requires the Department of Managed Health Care and the commissioner to develop and adopt regulations establishing standards and requirements to provide enrollees and insureds with appropriate access to language assistance in obtaining health care services and covered benefits. Existing law requires the Department of Managed Health Care and commissioner, in developing the regulations, to require health care service plans and health insurers to assess the linguistic needs of the enrollee and insured population, and to provide for translation and interpretation for medical services, as indicated.

This bill would require a health care service plan or health insurer to take reasonable steps to provide meaningful access to each individual

with limited English proficiency, including companions with limited English proficiency, eligible to receive services or likely to be directly affected by its programs and activities. The bill would require a health care service plan or health insurer to offer a qualified interpreter or to utilize a qualified translator when interpretation or translation services are required, as specified. The bill would prohibit a health care service plan or health insurer from requiring an individual with limited English proficiency to provide or pay for the costs of their own interpreter. The bill would require a health care service plan or health insurer to comply with specified requirements when providing remote interpreting services. The bill would make a health care service plan or health insurer that violates these provisions liable for civil penalties, as specified.

(2) Existing law requires certain vital documents containing enrollee- or insured-specific information to include a written notice of the availability of interpretation services in certain threshold languages. Existing law requires a health care service plan or health insurer, upon request, to provide a written translation of those documents within a specified timeframe. For those documents that also relate to expedited plan review of a grievance for a case involving an imminent and serious threat to the health of the patient, existing law authorizes a health care service plan or health insurer to satisfy the requirement by providing notice of the availability of oral interpretation services.

This bill would authorize a health care service plan or health insurer to satisfy the notice requirement by taking reasonable steps to inform the enrollee or insured of any required actions, including by providing a sight translation of a document.

(3) Existing law requires a health care service plan or health insurer that advertises or markets products in a non-English language, as specified, to provide specified documents in the same non-English language.

This bill would add to the list of documents required to be provided in the advertised or marketed non-English language, (A) notices related to any termination of coverage and change in covered services, (B) complaint forms to file a grievance or appeal, and (C) communications related to costs and payment of covered services, as specified.

(4) Existing law requires a health care service plan or health insurer to notify enrollees or insureds, as applicable, and members of the public of, among other things, the availability of language assistance services and appropriate auxiliary aids and services, as specified. Existing law requires this information to be provided upon initial enrollment, upon

renewal, and annually in or with materials that are routinely disseminated.

This bill would require a health care service plan or health insurer to also provide the information regarding the availability of language assistance services, as described above, (A) when specified forms are provided, (B) in clear and prominent physical locations, as specified, and (C) upon request.

(5) Existing law requires a health care service plan or health insurer to report to the applicable department on internal policies and procedures relating to cultural appropriateness in specified contexts.

This bill would require a health care service plan or health insurer to additionally report to the applicable department on internal policies and procedures relating to language access, as specified.

(6) Because a willful violation of these provisions by a health care service plan would be a crime, this 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 1367.04 of the Health and Safety Code
2 is amended to read:
3 1367.04. (a) Not later than January 1, 2006, the department
4 shall develop and adopt regulations establishing standards and
5 requirements to provide health care service plan enrollees with
6 appropriate access to language assistance in obtaining health care
7 services.
8 (b) In developing the regulations, the department shall require
9 every health care service plan and specialized health care service
10 plan to assess the linguistic needs of the enrollee population,
11 excluding Medi-Cal enrollees, and to provide for translation and
12 interpretation for medical services, as indicated. ~~A health care~~
13 ~~service plan that participates in the Healthy Families Program may~~
14 ~~assess the Healthy Families Program enrollee population separately~~

1 from the remainder of its enrollee population for purposes of
2 subparagraph (A) of paragraph (1). A health care service plan that
3 chooses to separate its Healthy Families Program enrollment from
4 the remainder of its enrollee population shall treat the Healthy
5 Families Program population separately for purposes of
6 determining whether subparagraph (A) of paragraph (1) is
7 applicable, and shall also treat the Healthy Families Program
8 population separately for purposes of applying the percentage and
9 numerical thresholds in subparagraph (A) of paragraph (1). The
10 regulations shall include the following:

11 (1) Requirements for the translation of vital documents that
12 include the following:

13 (A) A requirement that all vital documents, as defined pursuant
14 to subparagraph (B), be translated into an indicated language, as
15 follows:

16 (i) A health care service plan with an enrollment of 1,000,000
17 or more shall translate vital documents into the top two languages
18 other than English as determined by the needs assessment as
19 required by this subdivision and any additional languages when
20 0.75 percent or 15,000 of the enrollee population, whichever
21 number is less, excluding Medi-Cal enrollment and treating Healthy
22 Families Program enrollment separately indicates in the needs
23 assessment as required by this subdivision a preference for written
24 materials in that language.

25 (ii) A health care service plan with an enrollment of 300,000 or
26 more but less than 1,000,000 shall translate vital documents into
27 the top one language other than English as determined by the needs
28 assessment as required by this subdivision and any additional
29 languages when 1 percent or 6,000 of the enrollee population,
30 whichever number is less, excluding Medi-Cal enrollment and
31 treating Healthy Families Program enrollment separately indicates
32 in the needs assessment as required by this subdivision a preference
33 for written materials in that language.

34 (iii) A health care service plan with an enrollment of less than
35 300,000 shall translate vital documents into a language other than
36 English when 3,000 or more or 5 percent of the enrollee population,
37 whichever number is less, excluding Medi-Cal enrollment ~~and~~
38 ~~treating Healthy Families Program enrollment~~ separately indicates
39 in the needs assessment as required by this subdivision a preference
40 for written materials in that language.

(B) Specification of vital documents produced by the *health care service* plan that are required to be translated. The specification of vital documents shall not exceed that of the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

- (i) Applications.
- (ii) Consent forms.
- (iii) Letters containing important information regarding eligibility and participation criteria.
- (iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.
- (v) Notices advising ~~limited-English-proficient~~ persons *individuals with limited English proficiency, as defined in Section 1367.071*, of the availability of free language assistance and other outreach materials that are provided to enrollees.
- (vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C) (i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision. A health care service plan subject to the requirements in Section 1367.042 shall also include with the documents a written notice of the availability of interpretation services in the top 15 languages spoken by limited-English-proficient (LEP) individuals in California as determined by the State Department of Health Care Services.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care

1 service plan and enrollees under the provisions of this chapter and
2 under any regulations adopted pursuant to this chapter shall begin
3 to run upon the health care service plan's issuance of the translated
4 document.

5 (iii) For grievances that require expedited plan review and
6 response in accordance with subdivision (b) of Section 1368.01,
7 the health care service plan may satisfy this requirement *by taking*
8 *reasonable steps to inform the enrollee of any required actions,*
9 *including by providing a sight translation of a document, or*
10 *providing notice of the availability and access to oral interpretation*
11 ~~services; services or auxiliary aids and services.~~

12 (D) A requirement that health care service plans advise
13 ~~limited-English-proficient-enrollees~~ *individuals with limited*
14 *English proficiency* of the availability of interpreter services.

15 (2) Standards to ensure the quality and accuracy of the written
16 translations and that a translated document meets the same
17 standards required for the English language version of the
18 document. The English language documents shall determine the
19 rights and obligations of the parties, and the translated documents
20 shall be admissible in evidence only if there is a dispute regarding
21 a substantial difference in the material terms and conditions of the
22 English language document and the translated document.

23 (3) Requirements for surveying the language preferences and
24 needs assessments of health care service plan enrollees within one
25 year of the effective date of the regulations that permit health care
26 service plans to utilize various survey methods, including, but not
27 limited to, the use of existing enrollment and renewal processes,
28 subscriber newsletters, or other mailings. Health care service plans
29 shall update the needs assessment, demographic profile, and
30 language translation requirements every three years.

31 (4) Requirements for individual-enrollee access to interpretation
32 services that include the following:

33 (A) A requirement that an interpreter meets, at a minimum, all
34 of the following qualifications:

35 (i) Demonstrated proficiency in both English and the target
36 language.

37 (ii) Knowledge in both English and the target language of health
38 care terminology and concepts relevant to health care delivery
39 systems.

1 (iii) Adheres to generally accepted interpreter ethics principles,
2 including client confidentiality.

3 (B) A requirement that the ~~enrollee~~ *individual* with limited
4 English proficiency shall not be required to provide their own
5 interpreter or rely on a staff member who does not meet the
6 qualifications described in subparagraph (A) to communicate
7 directly with the limited-English-proficient enrollee.

8 (C) A requirement that the ~~enrollee~~ *individual* with limited
9 English proficiency shall not be required to rely on an adult or
10 minor child accompanying the enrollee to interpret or facilitate
11 communication except under either of the following circumstances:

12 (i) In an emergency, as described in Section 1317.1, if a qualified
13 interpreter is not immediately available for the enrollee with limited
14 English proficiency.

15 (ii) If the individual with limited English proficiency specifically
16 requests that the accompanying adult interpret or facilitate
17 communication, the accompanying adult agrees to provide that
18 assistance, and reliance on that accompanying adult for that
19 assistance is appropriate under the circumstances.

20 (5) Standards to ensure the quality and timeliness of oral
21 interpretation services provided by health care service plans.

22 (c) In developing the regulations, standards, and requirements,
23 the department shall consider the following:

24 (1) Publications and standards issued by federal agencies, such
25 as the Culturally and Linguistically Appropriate Services (CLAS)
26 in Health Care issued by the United States Department of Health
27 and Human Services Office of Minority Health in December 2000,
28 and the United States Department of Health and Human Services
29 (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal
30 Register 52762 (August 30, 2000)).

31 (2) Other cultural and linguistic requirements under state
32 programs, such as Medi-Cal Managed Care Policy Letters, cultural
33 and linguistic requirements imposed by the State Department of
34 Health Care Services on health care service plans that contract to
35 provide Medi-Cal managed care ~~services, and cultural and~~
36 ~~linguistic requirements imposed by the Managed Risk Medical~~
37 ~~Insurance Board on health care service plans that contract to~~
38 ~~provide services in the Healthy Families Program.~~ *services.*

39 (3) Standards adopted by other states pertaining to language
40 assistance requirements for health care service plans.

1 (4) Standards established by California or nationally recognized
2 accrediting, certifying, or licensing organizations and medical and
3 health care interpreter professional associations regarding
4 interpretation services.

5 (5) Publications, guidelines, reports, and recommendations
6 issued by state agencies or advisory committees, such as the report
7 card to the public on the comparative performance of plans and
8 reports on cultural and linguistic services issued by the Center for
9 Data Insights and Innovation and the report to the Legislature from
10 the Task Force on Culturally and Linguistically Competent
11 Physicians and Dentists established by former Section 852 of the
12 Business and Professions Code.

13 (6) Examples of best practices relating to language assistance
14 services by health care providers and health care service plans,
15 including existing practices.

16 (7) Information gathered from complaints to the HMO Helpline
17 and consumer assistance centers regarding language assistance
18 services.

19 (8) The cost of compliance and the availability of translation
20 and interpretation services and professionals.

21 (9) Flexibility to accommodate variations in plan networks and
22 method of service delivery. The department shall allow for health
23 care service plan flexibility in determining compliance with the
24 standards for oral and written interpretation services.

25 (d) The department shall work to ensure that the biennial reports
26 required by this section, and the data collected for those reports,
27 are consistent with reports required by government-sponsored
28 programs and do not require duplicative or conflicting data
29 collection or reporting.

30 (e) The department shall seek public input from a wide range
31 of interested parties through advisory bodies established by the
32 director.

33 (f) A contract between a health care service plan and a health
34 care provider shall require compliance with the standards developed
35 under this section. In furtherance of this section, the contract shall
36 require providers to cooperate with the plan by providing any
37 information necessary to assess compliance.

38 (g) The department shall report biennially to the Legislature
39 and advisory bodies established by the director regarding plan
40 compliance with the standards, including results of compliance

audits made in conjunction with other audits and reviews. The reported information shall also be included in the publication required under subparagraph (B) of paragraph (1) of subdivision (b) of Section 136000. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The department may also delay or otherwise phase-in implementation of standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(h) (1) Except for contracts with the State Department of Health Care Services Medi-Cal program, the standards developed under this section shall be considered the minimum required for compliance.

(2) The regulations shall provide that a health plan is in compliance if the plan is required to meet the same or similar standards by the Medi-Cal program, either by contract or state law, if the standards provide as much access to cultural and linguistic services as the standards established by this section for an equal or higher number of enrollees and therefore meet or exceed the standards of the regulations established pursuant to this section, and the department determines that the health care service plan is in compliance with the standards required by the Medi-Cal program. To meet this requirement, the department shall not be required to perform individual audits. The department shall, to the extent feasible, rely on audits, reports, or other oversight and enforcement methods used by the State Department of Health Care Services.

(3) The determination pursuant to paragraph (2) shall only apply to the enrollees covered by the Medi-Cal program standards. A health care service plan subject to paragraph (2) shall comply with the standards established by this section with regard to enrollees not covered by the Medi-Cal program.

(i) This section does not prohibit a government purchaser from including in their contracts additional translation or interpretation requirements, to meet linguistic or cultural needs, beyond those set forth pursuant to this section.

(j) *For purposes of this section, "sight translation" means the oral or signed rendering of written text into spoken or signed language by an interpreter without changes based on the visual review of the original text or document.*

SEC. 2. Section 1367.041 of the Health and Safety Code is amended to read:

1367.041. (a) A health care service plan that advertises or markets products in the individual or small group health care service plan markets, or allows any other person or business to market or advertise on its behalf in the individual or small group health care service plan markets, in a non-English language that does not meet the requirements set forth in Sections 1367.04 and 1367.07, shall provide the following documents in the same non-English language:

(1) Welcome letters or notices of initial coverage, if provided.

(2) Applications for enrollment and any information pertinent to eligibility or ~~participation~~. *participation, including communications related to costs and payment of covered services.*

(3) Notices advising limited-English-proficient persons of the availability of no-cost translation and interpretation services.

(4) ~~Notices~~ *Complaint forms and notices* pertaining to the right and instructions on how an enrollee may file a ~~grievance~~. *grievance or appeal.*

(5) *Notices related to any termination of coverage and change in covered services.*

~~(5)~~

(6) The uniform summary of benefits and coverage required pursuant to subparagraph (A) of paragraph (3) of subdivision (c) of Section 1363.

(b) A health care service plan shall use a trained and qualified translator for all written translations of marketing and advertising materials relating to health care service plan products, and for all of the documents specified in subdivision (a).

(c) This section shall not apply to a specialized health care service plan that does not offer an essential health benefit as defined in Section 1367.005.

SEC. 3. Section 1367.042 of the Health and Safety Code is amended to read:

1367.042. (a) A health care service plan shall notify enrollees and members of the public of all of the following information:

(1) The availability of language assistance services, including oral interpretation and translated written materials, free of charge and in a timely manner pursuant to Section 1367.04, and how to access these services. This information shall be ~~available~~ *provided*

1 in the top 15 languages spoken by limited-English-proficient
2 individuals in California as determined by the State Department
3 of Health Care Services.

4 (2) The availability of appropriate auxiliary aids and services,
5 including qualified interpreters for individuals with disabilities
6 and information in alternate formats, free of charge and in a timely
7 manner, when those aids and services are necessary to ensure an
8 equal opportunity to participate for individuals with disabilities.

9 (3) The health *care service* plan does not discriminate on the
10 basis of race, color, national origin, ancestry, religion, sex, marital
11 status, gender, gender identity, sexual orientation, age, or disability.

12 (4) The availability of the grievance procedure described in
13 Section 1368, how to file a grievance, including the name of the
14 plan representative and the telephone number, address, and email
15 address of the plan representative who may be contacted about the
16 grievance, and how to submit the grievance to the department for
17 review after completing the grievance process or participating in
18 the process for at least 30 days.

19 (5) How to file a discrimination complaint with the United States
20 Department of Health and Human Services Office for Civil Rights
21 if there is a concern of discrimination based on race, color, national
22 origin, age, disability, or sex.

23 (b) The information required to be provided pursuant to this
24 section shall be provided to an enrollee with individual coverage
25 upon initial enrollment and annually thereafter upon renewal, and
26 to enrollees and subscribers with group coverage upon initial
27 enrollment and annually thereafter upon renewal. A health care
28 service plan may include this information with other materials sent
29 to the enrollee. The information shall also be provided in the
30 following manner:

31 (1) In a conspicuously visible location in the evidence of
32 coverage.

33 (2) At least annually, in or with newsletters, outreach, or other
34 materials that are routinely disseminated to the plan's enrollees.

35 (3) ~~On the Internet Web site~~ *At a conspicuous place on the*
36 *internet website* published and maintained by the health care
37 service plan, in a manner that allows enrollees, prospective
38 enrollees, and members of the public to easily locate the
39 information.

40 (4) *Upon request.*

1 (5) *In all of the following electronic and written communications*
2 *when a health care service plan provides these forms:*

3 (A) *A notice of privacy practices, as required by Section 164.520*
4 *of Title 45 of the Code of Federal Regulations.*

5 (B) *Application forms.*

6 (C) *Notice of termination eligibility, benefits, or services,*
7 *including an explanation of benefits, and notices of appeal and*
8 *grievances of rights.*

9 (D) *Communications related to an individual's rights, eligibility,*
10 *benefits, or services that request a response from an enrollee or*
11 *applicant for health care coverage.*

12 (E) *Communications related to a public health emergency.*

13 (F) *Communications related to the cost and payment of care*
14 *with respect to an individual including medical billing and*
15 *collections materials, and good faith estimates required by Section*
16 *2799B-6 of the federal Public Health Service Act.*

17 (G) *Complaint forms.*

18 (H) *Member and enrollee handbooks.*

19 (6) *In clear and prominent physical locations, in font no smaller*
20 *than 20-point sans serif font, where it is reasonable to expect*
21 *individuals seeking service from a health care service plan to be*
22 *able to read or read and hear the notice.*

23 (c) *A health care service plan shall be deemed in compliance*
24 *with this section with respect to an enrollee if the plan provides*
25 *the option to, and the enrollee elects to, opt out of receipt of the*
26 *notice required by this section in their primary language and*
27 *through any appropriate auxiliary aids and services, and the health*
28 *care service plan meets all of the following requirements:*

29 (1) *Does not condition the receipt of any aid or benefit on the*
30 *enrollee's decision to opt out.*

31 (2) *Informs the individual with limited English proficiency that*
32 *they have a right to receive the notice upon request in their primary*
33 *language and through the appropriate auxiliary aids and services.*

34 (3) *Informs the individual with limited English proficiency that*
35 *opting out of receiving the notice is not a waiver of their right to*
36 *receive language assistance services and any appropriate auxiliary*
37 *aids and services as required by this part.*

38 (4) *Documents on an annual basis, that the enrollee with limited*
39 *English proficiency has opted out of receiving the notice required*
40 *by this section for that year.*

1 (5) *Does not treat a nonresponse from an enrollee as a decision*
2 *to opt out.*

3 ~~(e)~~

4 (d) (1) A specialized health care plan that is not a covered entity,
5 as defined in Section 92.4 of Title 45 of the Code of Federal
6 Regulations, subject to Section 1557 of the federal Patient
7 Protection and Affordable Care Act (42 U.S.C. Sec. 18116) may
8 request an exemption from the requirements under this section.

9 (2) The department shall not grant an exemption under this
10 subdivision to a specialized health care service plan that arranges
11 for mental health benefits, except for employee assistance program
12 plans.

13 (3) The department shall provide information on its ~~Internet~~
14 ~~Web site~~ *internet website* about any exemptions granted under this
15 subdivision.

16 ~~(d)~~

17 (e) This section does not apply to Medi-Cal managed care plan
18 contracts entered into with the State Department of Health Care
19 Services pursuant to Chapter 7 (commencing with Section 14000)
20 or Chapter 8 (commencing with Section 14200) of Part 3 of
21 Division 9 of the Welfare and Institutions Code.

22 (f) *This section does not require an individual with limited*
23 *English proficiency to accept language assistance services.*

24 SEC. 4. Section 1367.07 of the Health and Safety Code is
25 amended to read:

26 1367.07. Within one year after a health care service plan's
27 assessment pursuant to subdivision (b) of Section 1367.04, the
28 health care service plan shall report to the department, in a format
29 specified by the department, regarding internal policies and
30 procedures related to *language access and* cultural appropriateness
31 in each of the following contexts:

32 (a) Collection of data regarding the enrollee population pursuant
33 to the health care service plan's assessment conducted in
34 accordance with subdivision (b) of Section 1367.04.

35 ~~(b) Education of health care service plan staff who have routine~~
36 ~~contact with enrollees regarding the diverse needs of the enrollee~~
37 ~~population.~~

38 (b) *Employee training and resources on the policies and*
39 *procedures for serving individuals with limited English proficiency,*
40 *including all of the following:*

1 (1) *How an employee identifies whether an individual has*
2 *limited English proficiency.*

3 (2) *How an employee obtains the services of qualified*
4 *interpreters and translators the health care service plan uses to*
5 *communicate with an individual with limited English proficiency.*

6 (3) *The names of any qualified bilingual or multilingual staff*
7 *members.*

8 (4) *A list of any electronic and written translated materials the*
9 *health care service plan has, the language they are translated into,*
10 *date of issuance, and how to access the electronic translations.*

11 (5) *The appointment of a language access coordinator to*
12 *coordinate the health care service plan's responsibilities under*
13 *this section, unless the plan has fewer than 15 employees.*

14 (6) *Education of health care service plan staff who have contact*
15 *with enrollees on the diverse needs of the enrollee population.*

16 (c) Recruitment and retention efforts that encourage workforce
17 diversity.

18 (d) Evaluation of the health care service plan's programs and
19 services with respect to the plan's enrollee population, using
20 processes such as an analysis of complaints and satisfaction survey
21 results.

22 (e) The periodic provision of information regarding the ethnic
23 diversity of the *health care service* plan's enrollee population and
24 any related strategies to plan providers. ~~Plans~~ *Health care service*
25 *plans* may use existing means of communication.

26 (f) The periodic provision of educational information to plan
27 enrollees on the *health care service* plan's services and programs.
28 Plans may use existing means of communication.

29 (g) *For purposes of this section, "qualified bilingual or*
30 *multilingual staff" means a member of the health care service*
31 *plan's workforce who is designated by the plan to provide*
32 *in-language oral language assistance as part of the person's*
33 *current assigned job responsibilities and who has demonstrated*
34 *to the plan that they are both of the following:*

35 (1) *Proficient in speaking and understanding both spoken*
36 *English and at least one other spoken language, including any*
37 *necessary specialized vocabulary, terminology, and phraseology.*

38 (2) *Able to effectively, accurately, and impartially communicate*
39 *directly with individuals with limited English proficiency in their*
40 *primary languages.*

1 SEC. 5. Section 1367.071 is added to the Health and Safety
2 Code, immediately following Section 1367.07, to read:

3 1367.071. (a) Health care service plans shall take reasonable
4 steps to provide meaningful access to each individual with limited
5 English proficiency, including companions with limited English
6 proficiency, eligible to receive services or likely to be directly
7 affected by its programs and activities.

8 (b) Health care service plans shall provide accurate and timely
9 language assistance services, free of charge to individuals with
10 limited English proficiency. When providing language access
11 services, health care service plans shall protect the privacy and
12 independent decisionmaking ability of individuals with limited
13 English proficiency.

14 (c) When interpretation services are required pursuant to this
15 section or Section 1367.04, 1367.041, 1367.042, or 1367.07, or
16 any regulations adopted thereunder, a health care service plan shall
17 offer a qualified interpreter in its health programs and activities.

18 (d) When translation services are required pursuant to this
19 section or Section 1367.04, 1367.041, 1367.042, or 1367.07, or
20 any regulations adopted thereunder, a health care service plan shall
21 utilize a qualified translator in its health programs and activities.
22 Machine translation may be used to supplement services by
23 translators for translation of general information that is not critical
24 to the rights, benefits, or meaningful access to an individual with
25 limited English proficiency, or when a qualified translator is
26 unavailable. If a health care service plan uses machine translation
27 when the underlying text is critical to the rights, benefits, or
28 meaningful access to an individual with limited English
29 proficiency, when accuracy is essential or when the source
30 documents or other materials contain complex, nonliteral, or
31 technical language, the translation shall be reviewed by a qualified
32 translator.

33 (e) A health care service plan shall not do any of the following:

34 (1) Require individuals with limited English proficiency to
35 provide or pay for the costs of their own interpreter.

36 (2) Rely on an adult, not qualified as an interpreter, to interpret
37 or facilitate communications with an individual with limited
38 English proficiency except under either of the following
39 circumstances:

1 (A) As a temporary measure, while finding a qualified interpreter
2 in an emergency involving an immediate threat to the safety or
3 welfare of an individual or the public welfare where there is no
4 qualified interpreter for the individual with limited English
5 proficiency immediately available and the qualified interpreter
6 that arrives conforms or supplements the initial communication
7 with an adult interpreter.

8 (B) Where the individual with limited English proficiency
9 specifically requests, in private with a qualified interpreter present
10 and without an accompanying adult present, that the accompanying
11 adult interpret or facilitate communications, provided that all of
12 the following conditions are met:

13 (i) The request is confirmed in private with a qualified interpreter
14 and without the accompanying adult present.

15 (ii) The accompanying adult agrees to provide the assistance.

16 (iii) The individual's request and agreement by the
17 accompanying adult is documented.

18 (iv) The reliance on that adult for the assistance is appropriate
19 under the circumstances.

20 (3) Rely on a minor child to interpret or facilitate
21 communication, except as a temporary measure while finding a
22 qualified interpreter in an emergency involving an imminent threat
23 to the safety or welfare of an individual or the public where there
24 is no qualified interpreter for the enrollee with limited English
25 proficiency immediately available and the qualified interpreter
26 that arrives or confirms or supplements the initial communications
27 with the minor child.

28 (4) Rely on staff other than qualified interpreters, qualified
29 translators, or qualified bilingual or multilingual staff to
30 communicate with individuals with limited English proficiency.

31 (f) A health care service plan that provides a qualified interpreter
32 for an individual with limited English proficiency through video
33 remote interpreting services shall ensure the modality allows for
34 meaningful access and shall provide all of the following:

35 (1) Real-time, full-motion video and audio over a dedicated
36 high-speed, wide-bandwidth video connection or wireless
37 connection that delivers high-quality video images that do not
38 produce lags, choppy, blurry, or grainy, images, or irregular pauses
39 in communication.

1 (2) A sharply delineated image that is large enough to display
2 the interpreter's face and the participating person's face regardless
3 of that person's body position.

4 (3) A clear, audible transmission of voices.

5 (4) Adequate training to users of the technology and other
6 involved persons so that they can quickly and efficiently set up
7 and operate the video remote interpreting.

8 (g) A health care service plan that provides a qualified interpreter
9 for an individual with limited English proficiency through audio
10 remote interpreting services shall ensure the modality allows for
11 meaningful access and shall provide all of the following:

12 (1) Real-time audio over a dedicated high-speed,
13 wide-bandwidth connection or wireless connection that delivers
14 high-quality audio without lags, or irregular pauses in
15 communication.

16 (2) A clear, audible transmission of voices.

17 (3) Adequate training to users of the technology and other
18 involved persons so that they may quickly and efficiently set up
19 and operate the remote interpreting services.

20 (h) (1) The director may take enforcement action, including,
21 but not limited to, imposing penalties for noncompliance with the
22 requirements of this section or regulations promulgated thereunder.

23 (2) If the director determines that a health care service plan, or
24 an entity contracted with the health care service plan, has violated
25 this section, the director may, after appropriate notice and
26 opportunity for hearing in accordance with the Administrative
27 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
28 Part 1 of Division 3 of Title 2 of the Government Code), by order,
29 assess a civil penalty not to exceed five thousand dollars (\$5,000)
30 for each violation, or if a violation was willful, a civil penalty not
31 to exceed ten thousand dollars (\$10,000) for each violation.

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

34 (1) "Companion" means a family member, friend, or associate
35 of an individual seeking access to a service, program, or activity
36 of a health care service plan entity, who along with such individual,
37 is an appropriate person with whom a plan should communicate.

38 (2) "Individual with limited English proficiency" means an
39 enrollee or prospective enrollee whose primary language for
40 communication is not English and who has limited ability to read,

1 write, speak, or understand English. An individual may be
2 competent in English for certain types of communication, including
3 speaking or understanding, but still have limited English
4 proficiency for purposes of this section.

5 (3) “Machine translation” means automated translation, without
6 the assistance of, or review by a qualified translator, that is
7 text-based and provides instant translations between various
8 languages, sometimes with an option for audio input or output.
9 Machine translation technology is not a qualified translator or
10 qualified interpreter.

11 (4) (A) “Qualified interpreter” means a human interpreter who
12 meets all of the following requirements:

13 (i) Interprets via a remote interpreting service or an on-site
14 appearance.

15 (ii) Has demonstrated proficiency in speaking and understanding
16 both English and at least one other spoken language.

17 (iii) Is able to interpret effectively, accurately, and impartially,
18 to and from a language and English, using any necessary
19 specialized vocabulary or terms without changes, omissions, or
20 additions, and while preserving the tone, sentiment, and emotional
21 level of the original oral statement.

22 (iv) Adheres to generally accepted interpreter ethics principles,
23 including client confidentiality.

24 (B) “Qualified interpreter” includes a qualified interpreter for
25 relay interpretation.

26 (5) “Qualified interpreter for relay interpretation” means a
27 human interpreter who meets all of the following requirements:

28 (A) Interprets via a remote interpreting service or an on-site
29 appearance.

30 (B) Demonstrates proficiency in two non-English spoken
31 languages.

32 (C) Is able to interpret effectively, accurately, and impartially,
33 to and from two non-English languages using any necessary
34 specialized vocabulary or terms without changes, omissions, or
35 additions, and while preserving the tone, sentiment, and emotional
36 level of the original oral statement.

37 (D) Adheres to generally accepted interpreter ethics principles,
38 including client confidentiality.

39 (6) “Qualified translator” means a human translator who meets
40 all of the following requirements:

1 (A) Has demonstrated proficiency in writing and understanding
2 both written English and at least one other written non-English
3 language.

4 (B) Is able to translate effectively, accurately, and impartially
5 to and from a language and English using any necessary specialized
6 vocabulary or terms without changes, omissions, or additions and
7 while preserving the tone, sentiment, and emotional level of the
8 original written statement.

9 (C) Adheres to generally accepted interpreter ethics principles,
10 including client confidentiality.

11 (7) "Relay interpretation" means interpreting from one language
12 to another through an intermediate, including interpretation used
13 for monolingual speakers of languages of limited diffusion. In
14 relay interpreting, the first interpreter listens to the speaker and
15 renders the message into the intermediate language. The second
16 interpreter receives the message in the intermediate language and
17 interprets into a third language for the speaker who speaks neither
18 the first nor second language.

19 SEC. 6. Section 10133.8 of the Insurance Code is amended to
20 read:

21 10133.8. (a) The commissioner shall, on or before January 1,
22 2006, promulgate regulations applicable to all individual and group
23 policies of health insurance establishing standards and requirements
24 to provide insureds with appropriate access to translated materials
25 and language assistance in obtaining covered benefits. ~~A health~~
26 ~~insurer that participates in the Healthy Families Program may~~
27 ~~assess the Healthy Families Program enrollee population separately~~
28 ~~from the remainder of its population for purposes of subparagraph~~
29 ~~(A) of paragraph (3) of subdivision (b). An insurer that chooses~~
30 ~~to separate its Healthy Families Program enrollment from the~~
31 ~~remainder of its population shall treat the Healthy Families~~
32 ~~Program population separately for purposes of determining whether~~
33 ~~subparagraph (A) of paragraph (3) of subdivision (b) is applicable~~
34 ~~and shall also treat the Healthy Families Program population~~
35 ~~separately for purposes of applying the percentage and numerical~~
36 ~~thresholds in subparagraph (A) of paragraph (3) of subdivision~~
37 ~~(b).~~

38 (b) The regulations described in subdivision (a) shall include
39 the following:

1 (1) A requirement to conduct an assessment of the needs of the
2 insured group, pursuant to this subdivision.

3 (2) Requirements for surveying the language preferences and
4 assessment of linguistic needs of insureds within one year of the
5 effective date of the regulations that permit health insurers to utilize
6 various survey methods, including, but not limited to, the use of
7 existing enrollment and renewal processes, newsletters, or other
8 mailings. Health insurers shall update the linguistic needs
9 assessment, demographic profile, and language translation
10 requirements every three years. However, the regulations may
11 provide that the surveys and assessments by insurers of
12 supplemental insurance products may be conducted less frequently
13 than three years if the commissioner determines that the results
14 are unlikely to affect the translation requirements.

15 (3) Requirements for the translation of vital documents that
16 include the following:

17 (A) A requirement that all vital documents, as defined pursuant
18 to subparagraph (B), be translated into an indicated language, as
19 follows:

20 (i) A health insurer with an insured population of 1,000,000 or
21 more shall translate vital documents into the top two languages
22 other than English as determined by the needs assessment pursuant
23 to paragraph (2) and any additional languages when 0.75 percent
24 or 15,000 of the insured population, whichever number is less,
25 indicates in the needs assessment pursuant to paragraph (2) a
26 preference for written materials in that language.

27 (ii) A health insurer with an insured population of 300,000 or
28 more but less than 1,000,000 shall translate vital documents into
29 the top one language other than English as determined by the needs
30 assessment pursuant to paragraph (2) and any additional languages
31 when 1 percent or 6,000 of the insured population, whichever
32 number is less, indicates in the needs assessment pursuant to
33 paragraph (2) a preference for written materials in that language.

34 (iii) A health insurer with an insured population of less than
35 300,000 shall translate vital documents into a language other than
36 English when 3,000 or more or 5 percent of the insured population,
37 whichever number is less, indicates in the needs assessment
38 pursuant to paragraph (2) a preference for written materials in that
39 language.

(B) Specification of vital documents produced by the *health* insurer that are required to be translated. The specification of vital documents shall not exceed that of the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

- (i) Applications.
- (ii) Consent forms.
- (iii) Letters containing important information regarding eligibility or participation criteria.
- (iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, *and* the right to file a complaint or appeal.
- (v) Notices advising ~~limited-English-proficient~~ *persons individuals with limited English proficiency, as defined in Section 10133.91* of the availability of free language assistance and other outreach materials that are provided to insureds.
- (vi) Translated documents shall not include ~~an~~ *a health* insurer's explanation of benefits or similar claim processing information that are sent to insureds unless the document requires a response by the insured.

(C) For those documents described in subparagraph (B) that are not standardized but contain insured specific information, health insurers shall not be required to translate the documents into the threshold languages identified by the needs assessment pursuant to paragraph (2) but rather shall include with the document a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment pursuant to paragraph (2). A health insurer subject to the requirements in Section 10133.11 shall also include with the documents a written notice of the availability of interpretation services in the top 15 languages spoken by limited-English-proficient (LEP) individuals in California as determined by the State Department of Health Care Services.

- (i) Upon request, the insured shall receive a written translation of those documents. The health insurer shall have up to, but not to exceed, 21 days to comply with the insured's request for a written translation. If an enrollee requests a translated document, all timeframes and deadlines requirements related to the documents that apply to the health insurer and insureds under the provisions

1 of this chapter and under any regulations adopted pursuant to this
2 chapter shall begin to run upon the health insurer's issuance of the
3 translated document.

4 (ii) For appeals that require expedited review and response in
5 accordance with the statutes and regulations of this chapter, the
6 health insurer may satisfy this requirement *by taking reasonable*
7 *steps to inform the insured of any required actions, including by*
8 *providing a sight translation of a document, or providing notice*
9 *of the availability and access to oral interpretation services; services*
10 *or auxiliary aids and services.*

11 (D) A requirement that health insurers advise
12 ~~limited-English-proficient insureds~~ *individuals with limited English*
13 *proficiency* of the availability of interpreter services.

14 (4) Standards to ensure the quality and accuracy of the written
15 translation and that a translated document meets the same standards
16 required for the English version of the document. The English
17 language documents shall determine the rights and obligations of
18 the parties, and the translated documents shall be admissible in
19 evidence only if there is a dispute regarding a substantial difference
20 in the material terms and conditions of the English language
21 document and the translated document.

22 (5) Requirements for individual access to interpretation services
23 that include the following:

24 (A) A requirement that an interpreter meets, at a minimum, all
25 of the following qualifications:

26 (i) Demonstrated proficiency in both English and the target
27 language.

28 (ii) Knowledge in both English and the target language of health
29 care terminology and concepts relevant to health care delivery
30 systems.

31 (iii) Adheres to generally accepted interpreter ethics principles,
32 including client confidentiality.

33 (B) A requirement that the ~~insured individual~~ *individual* with limited
34 English proficiency shall not be required to provide their own
35 interpreter or rely on a staff member who does not meet the
36 qualifications described in subparagraph (A) to communicate
37 directly with the limited-English-proficient insured.

38 (C) A requirement that the ~~insured individual~~ *individual* with limited
39 English proficiency shall not be required to rely on an adult or

1 minor child accompanying the insured to interpret or facilitate
2 communication except under either of the following circumstances:

3 (i) In an emergency, as described in Section 1317.1 of the Health
4 and Safety Code, if a qualified interpreter is not immediately
5 available for the insured with limited English proficiency.

6 (ii) If the individual with limited English proficiency specifically
7 requests that the accompanying adult interpret or facilitate
8 communication, the accompanying adult agrees to provide that
9 assistance, and reliance on that accompanying adult for that
10 assistance is appropriate under the circumstances.

11 (6) Standards to ensure the quality and timeliness of oral
12 interpretation services provided by health insurers.

13 (c) In developing the regulations, standards, and requirements
14 described in this section, the commissioner shall consider the
15 following:

16 (1) Publications and standards issued by federal agencies,
17 including the Culturally and Linguistically Appropriate Services
18 (CLAS) in Health Care issued by the United States Department
19 of Health and Human Services Office of Minority Health in
20 December 2000, and the United States Department of Health and
21 Human Services (HHS) Office for Civil Rights (OCR) Policy
22 Guidance 65 (65 Federal Register 52762 (August 30, 2000)).

23 (2) Other cultural and linguistic requirements under state
24 programs, including the Medi-Cal Managed Care Policy Letters,
25 cultural and linguistic requirements imposed by the State
26 Department of Health Care Services on health care service plans
27 that contract to provide Medi-Cal managed care services, and
28 ~~cultural and linguistic requirements imposed by the Managed Risk~~
29 ~~Medical Insurance Board on health insurers that contract to provide~~
30 ~~services in the Healthy Families Program.~~ services.

31 (3) Standards adopted by other states pertaining to language
32 assistance requirements for health insurers.

33 (4) Standards established by California or nationally recognized
34 accrediting, certifying, or licensing organizations and medical and
35 health care interpreter professional associations regarding
36 interpretation services.

37 (5) Publications, guidelines, reports, and recommendations
38 issued by state agencies or advisory committees, such as the report
39 card to the public on the comparative performance of plans and
40 reports on cultural and linguistic services issued by the Center for

1 Data Insights and Innovation and the report to the Legislature from
2 the Task Force on Culturally and Linguistically Competent
3 Physicians and Dentists required pursuant to former Section 852
4 of the Business and Professions Code.

5 (6) Examples of best practices relating to language assistance
6 services by health care providers and health insurers that contract
7 for alternative rates of payment with providers, including existing
8 practices.

9 (7) Information gathered from complaints to the commissioner
10 and consumer assistance help lines regarding language assistance
11 services.

12 (8) The cost of compliance and the availability of translation
13 and interpretation services and professionals.

14 (9) Flexibility to accommodate variations in networks and
15 method of service delivery. The commissioner shall allow for
16 health insurer flexibility in determining compliance with the
17 standards for oral and written interpretation services.

18 (d) In designing the regulations, the commissioner shall consider
19 all other relevant guidelines in an effort to accomplish maximum
20 accessibility within a cost-efficient system of indemnification. The
21 commissioner shall seek public input from a wide range of
22 interested parties.

23 (e) Services, verbal communications, and written materials
24 provided by or developed by the health insurers that contract for
25 alternative rates of payment with providers, shall comply with the
26 standards developed under this section.

27 (f) Beginning on January 1, 2008, the department shall report
28 biennially to the Legislature regarding health insurer compliance
29 with the standards established by this section, including results of
30 compliance audits made in conjunction with other audits and
31 reviews. The department shall also utilize the reported information
32 to make recommendations for changes that further enhance
33 standards pursuant to this section. The commissioner shall work
34 to ensure that the biennial reports required by this section, and the
35 data collected for the reports, do not require duplicative or
36 conflicting data collection with other reports that may be required
37 by government-sponsored programs. The commissioner may also
38 delay or otherwise phase in implementation of the standards and
39 requirements in recognition of costs and availability of translation
40 and interpretation services and professionals.

1 (g) This section does not prohibit government purchasers from
2 including in their contracts additional translation or interpretation
3 requirements, to meet the linguistic and cultural needs, beyond
4 those set forth pursuant to this section.

5 (h) *For purposes of this section, “sight translation” means the*
6 *oral or signed rendering of written text into spoken or signed*
7 *language by an interpreter without changes based on the visual*
8 *review of the original text or document.*

9 SEC. 7. Section 10133.9 of the Insurance Code is amended to
10 read:

11 10133.9. Within a year after the health insurer’s assessment
12 pursuant to paragraph (2) of subdivision (b) of Section 10133.8,
13 health insurers shall report to the ~~Department of Insurance~~
14 *department* on internal policies and procedures related to *language*
15 *access and* cultural appropriateness, in a format specified by the
16 department, in the following ways:

17 (a) Collection of data regarding the insured population based
18 on the needs assessment as required by paragraph (2) of subdivision
19 (b) of Section 10133.8.

20 ~~(b) Education of health insurer staff who have routine contact~~
21 ~~with insureds regarding the diverse needs of the insured population.~~

22 (b) *Employee training and resources on the policies and*
23 *procedures for serving individuals with limited English proficiency,*
24 *including all of the following:*

25 (1) *How an employee identifies whether an individual has*
26 *limited English proficiency.*

27 (2) *How an employee obtains the services of qualified*
28 *interpreters and translators the health insurer uses to communicate*
29 *with an individual with limited English proficiency.*

30 (3) *The names of any qualified bilingual or multilingual staff*
31 *members.*

32 (4) *A list of any electronic and written translated materials the*
33 *health insurer has, the language they are translated into, date of*
34 *issuance, and how to access the electronic translations.*

35 (5) *The appointment of a language access coordinator to*
36 *coordinate the health insurer’s responsibilities under this section,*
37 *unless the insurer has fewer than 15 employees.*

38 (6) *Education of health insurer staff who have contact with*
39 *insureds on the diverse needs of the insured population.*

1 (c) Recruitment and retention efforts that encourage workforce
2 diversity.

3 (d) Evaluation of the health insurer's programs and services
4 with respect to the insurer's ~~enrollee~~ *insured* populations, using
5 processes such as an analysis of complaints and satisfaction survey
6 results.

7 (e) The periodic provision of information regarding the ethnic
8 diversity of the *health* insurer's insured population and any related
9 strategies to insurers providers. ~~Insurers~~ *Health insurers* may use
10 existing means of communication.

11 (f) The periodic provision of educational information to insureds
12 on the *health* insurer's services and programs. ~~Insurers~~ *Health*
13 *insurers* may use existing means of communication.

14 (g) *For purposes of this section, "qualified bilingual or*
15 *multilingual staff" means a member of the insurer's workforce*
16 *who is designated by the insurer to provide in-language oral*
17 *language assistance as part of the person's current assigned job*
18 *responsibilities and who has demonstrated to the insurer that they*
19 *are both of the following:*

20 (1) *Proficient in speaking and understanding both spoken*
21 *English and at least one other spoken language, including any*
22 *necessary specialized vocabulary, terminology and phraseology.*

23 (2) *Able to effectively, accurately, and impartially communicate*
24 *directly with individuals with limited English proficiency in their*
25 *primary languages.*

26 SEC. 8. Section 10133.91 is added to the Insurance Code,
27 immediately following Section 10133.9, to read:

28 10133.91. (a) Health insurers shall take reasonable steps to
29 provide meaningful access to each individual with limited English
30 proficiency, including companions with limited English
31 proficiency, eligible to receive services or likely to be directly
32 affected by its programs and activities.

33 (b) Health insurers shall provide accurate and timely language
34 assistance services, free of charge to individuals with limited
35 English proficiency. When providing language access services,
36 health insurers shall protect the privacy and independent
37 decisionmaking ability of individuals with limited English
38 proficiency.

39 (c) When interpretation services are required pursuant to this
40 section or Section 10133.8, 10133.9, 10133.10, or 10133.11, or

1 any regulations adopted thereunder, a health insurer shall offer a
2 qualified interpreter in its health programs and activities.

3 (d) When translation services are required pursuant to this
4 section or Section 10133.8, 10133.9, 10133.10, or 10133.11, or
5 any regulations adopted thereunder, a health insurer shall utilize
6 a qualified translator in its health programs and activities. Machine
7 translation may be used to supplement services by translators for
8 translation of general information that is not critical to the rights,
9 benefits, or meaningful access to an individual with limited English
10 proficiency, or when a qualified translator is unavailable. If a health
11 insurer uses machine translation when the underlying text is critical
12 to the rights, benefits, or meaningful access to an individual with
13 limited English proficiency, when accuracy is essential or when
14 the source documents or other materials contain complex,
15 nonliteral, or technical language, the translation shall be reviewed
16 by a qualified translator.

17 (e) A health insurer shall not do any of the following:

18 (1) Require individuals with limited English proficiency to
19 provide or pay for the costs of their own interpreter.

20 (2) Rely on an adult, not qualified as an interpreter, to interpret
21 or facilitate communications with an individual with limited
22 English proficiency except under either of the following
23 circumstances:

24 (A) As a temporary measure, while finding a qualified interpreter
25 in an emergency involving an immediate threat to the safety or
26 welfare of an individual or the public welfare where there is no
27 qualified interpreter for the individual with limited English
28 proficiency immediately available and the qualified interpreter
29 that arrives conforms or supplements the initial communication
30 with an adult interpreter.

31 (B) Where the individual with limited English proficiency
32 specifically requests, in private with a qualified interpreter present
33 and without an accompanying adult present, that the accompanying
34 adult interpret or facilitate communications, provided that all of
35 the following conditions are met:

36 (i) The request is confirmed in private with a qualified interpreter
37 and without the accompanying adult present.

38 (ii) The accompanying adult agrees to provide the assistance.

39 (iii) The individual's request and agreement by the
40 accompanying adult is documented.

(iv) The reliance on that adult for the assistance is appropriate under the circumstances.

(3) Rely on a minor child to interpret or facilitate communication, except as a temporary measure while finding a qualified interpreter in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the insured with limited English proficiency immediately available and the qualified interpreter that arrives or confirms or supplements the initial communications with the minor child.

(4) Rely on staff other than qualified interpreters, qualified translators, or qualified bilingual or multilingual staff to communicate with individuals with limited English proficiency.

(f) A health insurer that provides a qualified interpreter for an individual with limited English proficiency through video remote interpreting services shall ensure the modality allows for meaningful access and shall provide all of the following:

(1) Real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy, images, or irregular pauses in communication.

(2) A sharply delineated image that is large enough to display the interpreter's face and the participating person's face regardless of that person's body position.

(3) A clear, audible transmission of voices.

(4) Adequate training to users of the technology and other involved persons so that they can quickly and efficiently set up and operate the video remote interpreting.

(g) A health insurer that provides a qualified interpreter for an individual with limited English proficiency through audio remote interpreting services shall ensure the modality allows for meaningful access and shall provide all of the following:

(1) Real-time audio over a dedicated high-speed, wide-bandwidth connection or wireless connection that delivers high-quality audio without lags, or irregular pauses in communication.

(2) A clear, audible transmission of voices.

1 (3) Adequate training to users of the technology and other
2 involved persons so that they may quickly and efficiently set up
3 and operate the remote interpreting services.

4 (h) (1) The commissioner may take enforcement action,
5 including, but not limited to, imposing penalties for noncompliance
6 with the requirements of this section or regulations promulgated
7 thereunder.

8 (2) If the commissioner determines that a health insurer, or an
9 entity contracted with the health insurer, has violated this section,
10 the commissioner may, after appropriate notice and opportunity
11 for hearing in accordance with the Administrative Procedure Act
12 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
13 Division 3 of Title 2 of the Government Code), by order, assess a
14 civil penalty not to exceed five thousand dollars (\$5,000) for each
15 violation, or if a violation was willful, a civil penalty not to exceed
16 ten thousand dollars (\$10,000) for each violation.

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

19 (1) "Companion" means a family member, friend, or associate
20 of an individual seeking access to a service, program, or activity
21 of a health insurer entity, who along with such individual, is an
22 appropriate person with whom an insurer should communicate.

23 (2) "Individual with limited English proficiency" means an
24 insured or prospective insured whose primary language for
25 communication is not English and who has limited ability to read,
26 write, speak, or understand English. An individual may be
27 competent in English for certain types of communication, including
28 speaking or understanding, but still have limited English
29 proficiency for purposes of this section.

30 (3) "Machine translation" means automated translation, without
31 the assistance of, or review by a qualified translator, that is
32 text-based and provides instant translations between various
33 languages, sometimes with an option for audio input or output.
34 Machine translation technology is not a qualified translator or
35 qualified interpreter.

36 (4) (A) "Qualified interpreter" means a human interpreter who
37 meets all of the following requirements:

38 (i) Interprets via a remote interpreting service or an on-site
39 appearance.

- 1 (ii) Has demonstrated proficiency in speaking and understanding
- 2 both English and at least one other spoken language.
- 3 (iii) Is able to interpret effectively, accurately, and impartially,
- 4 to and from a language and English, using any necessary
- 5 specialized vocabulary or terms without changes, omissions, or
- 6 additions, and while preserving the tone, sentiment, and emotional
- 7 level of the original oral statement.
- 8 (iv) Adheres to generally accepted interpreter ethics principles,
- 9 including client confidentiality.
- 10 (B) “Qualified interpreter” includes a qualified interpreter for
- 11 relay interpretation.
- 12 (5) “Qualified interpreter for relay interpretation” means a
- 13 human interpreter who meets all of the following requirements:
- 14 (A) Interprets via a remote interpreting service or an on-site
- 15 appearance.
- 16 (B) Demonstrates proficiency in two non-English spoken
- 17 languages.
- 18 (C) Is able to interpret effectively, accurately, and impartially,
- 19 to and from two non-English languages using any necessary
- 20 specialized vocabulary or terms without changes, omissions, or
- 21 additions, and while preserving the tone, sentiment, and emotional
- 22 level of the original oral statement.
- 23 (D) Adheres to generally accepted interpreter ethics principles,
- 24 including client confidentiality.
- 25 (6) “Qualified translator” means a human translator who meets
- 26 all of the following requirements:
- 27 (A) Has demonstrated proficiency in writing and understanding
- 28 both written English and at least one other written non-English
- 29 language.
- 30 (B) Is able to translate effectively, accurately, and impartially
- 31 to and from a language and English using any necessary specialized
- 32 vocabulary or terms without changes, omissions, or additions and
- 33 while preserving the tone, sentiment, and emotional level of the
- 34 original written statement.
- 35 (C) Adheres to generally accepted interpreter ethics principles,
- 36 including client confidentiality.
- 37 (7) “Relay interpretation” means interpreting from one language
- 38 to another through an intermediate, including interpretation used
- 39 for monolingual speakers of languages of limited diffusion. In
- 40 relay interpreting, the first interpreter listens to the speaker and

1 renders the message into the intermediate language. The second
2 interpreter receives the message in the intermediate language and
3 interprets into a third language for the speaker who speaks neither
4 the first nor second language.

5 SEC. 9. Section 10133.10 of the Insurance Code is amended
6 to read:

7 10133.10. (a) ~~An~~*A health* insurer that markets, advertises, or
8 produces educational materials for a health insurance policy, as
9 defined in Section 106, in the individual or small group health
10 insurance markets, or allows any other person or business to market
11 or advertise on its behalf in the individual or small group health
12 insurance markets, in a non-English language that does not meet
13 the requirements set forth in Sections 10133.8 and 10133.9, shall
14 provide the following documents in the same non-English
15 language:

16 (1) Welcome letters or notices of initial coverage, if applicable.

17 (2) Applications for health insurance and any information
18 pertinent to eligibility or ~~participation~~. *participation, including*
19 *communications related to costs and payment of covered services.*

20 (3) Notices advising limited-English-proficient persons of the
21 availability of no-cost translation and interpretation services.

22 (4) ~~Notices~~ *Complaint forms and notices* pertaining to the right
23 and instructions on how an insured may file a ~~grievance~~. *grievance*
24 *or appeal.*

25 (5) *Notices related to any termination of coverage and change*
26 *in covered services.*

27 ~~(5)~~

28 (6) The uniform summary of benefits and coverage required
29 pursuant to paragraph (2) of subdivision (a) of Section 10603.

30 (b) ~~An insurer~~ *A health insurer* shall use trained and qualified
31 translators for the translation of all marketing and advertising
32 materials relating to health insurance products and for all of the
33 documents specified in subdivision (a).

34 (c) This section shall not apply to a specialized health insurance
35 policy that does not offer an essential health benefit as defined in
36 Section 10112.27.

37 SEC. 10. Section 10133.11 of the Insurance Code is amended
38 to read:

39 10133.11. (a) ~~An~~*A health* insurer shall notify insureds and
40 members of the public of all of the following information:

1 (1) The availability of language assistance services, including
2 oral interpretation and translated written materials, free of charge
3 and in a timely manner pursuant to Section 10133.8, and how to
4 access these services. This information shall be ~~available~~ *provided*
5 in the top 15 languages spoken by limited-English-proficient
6 individuals in California as determined by the State Department
7 of Health Care Services.

8 (2) The availability of appropriate auxiliary aids and services,
9 including qualified interpreters for individuals with disabilities
10 and information in alternate formats, free of charge and in a timely
11 manner, when those aids and services are necessary to ensure an
12 equal opportunity to participate for individuals with disabilities.

13 (3) ~~An A health~~ insurer does not discriminate on the basis of
14 race, color, national origin, ancestry, religion, sex, marital status,
15 gender, gender identity, sexual orientation, age, or disability.

16 (4) How to file a complaint, including the name of the health
17 insurer representative and the telephone number, address, and
18 email address of the health insurer representative who may be
19 contacted about the complaint, and how to submit the complaint
20 to the department for review.

21 (5) How to file a discrimination complaint with the United States
22 Department of Health and Human Services Office for Civil Rights
23 if there is a concern of discrimination based on race, color, national
24 origin, age, disability, or sex.

25 (b) The information required to be provided pursuant to this
26 section shall be provided to an insured with individual coverage
27 upon initial enrollment and annually thereafter upon renewal, and
28 to insureds with group coverage upon initial enrollment and
29 annually thereafter upon renewal. ~~An A health~~ insurer may include
30 this information with other materials sent to the insured. The
31 information shall also be provided in the following manner:

32 (1) In a conspicuously visible location in the evidence of
33 coverage.

34 (2) At least annually, in or with newsletters, outreach, or other
35 materials that are routinely disseminated to the health insurer's
36 insureds.

37 (3) ~~On the Internet Web site~~ *At a conspicuous place on the*
38 *internet website* published and maintained by the health insurer,
39 in a manner that allows insureds, prospective insureds, and
40 members of the public to easily locate the information.

1 (4) *Upon request.*

2 (5) *In all of the following electronic and written communications*
3 *when a health insurer provides these forms:*

4 (A) *A notice of privacy practices, as required by Section 164.520*
5 *of Title 45 of the Code of Federal Regulations.*

6 (B) *Application forms.*

7 (C) *Notice of termination eligibility, benefits, or services,*
8 *including an explanation of benefits, and notices of appeal and*
9 *grievances of rights.*

10 (D) *Communications related to an individual's rights, eligibility,*
11 *benefits, or services that request a response from an insured or*
12 *applicant for health care coverage.*

13 (E) *Communications related to a public health emergency.*

14 (F) *Communications related to the cost and payment of care*
15 *with respect to an individual including medical billing and*
16 *collections materials, and good faith estimates required by Section*
17 *2799B-6 of the federal Public Health Service Act.*

18 (G) *Complaint forms.*

19 (H) *Member and insured handbooks.*

20 (6) *In clear and prominent physical locations, in font no smaller*
21 *than 20-point sans serif font, where it is reasonable to expect*
22 *individuals seeking service from a health insurer to be able to read*
23 *or read and hear the notice.*

24 (c) *A health insurer shall be deemed in compliance with this*
25 *section with respect to an insured if the health insurer provides*
26 *the option to, and the insured elects to, opt out of receipt of the*
27 *notice required by this section in their primary language and*
28 *through any appropriate auxiliary aids and services, and the health*
29 *insurer meets all of the following requirements:*

30 (1) *Does not condition the receipt of any aid or benefit on the*
31 *insured's decision to opt out.*

32 (2) *Informs the individual with limited English proficiency that*
33 *they have a right to receive the notice upon request in their primary*
34 *language and through the appropriate auxiliary aids and services.*

35 (3) *Informs the individual with limited English proficiency that*
36 *opting out of receiving the notice is not a waiver of their right to*
37 *receive language assistance services and any appropriate auxiliary*
38 *aids and services as required by this part.*

1 (4) *Documents on an annual basis, that the insured with limited*
2 *English proficiency has opted out of receiving the notice required*
3 *by this section for that year.*

4 (5) *Does not treat a nonresponse from an insured as a decision*
5 *to opt out.*

6 ~~(e)~~

7 (d) (1) A specialized health insurance policy that is not a
8 covered entity, as defined in Section 92.4 of Title 45 of the Code
9 of Federal Regulations, subject to Section 1557 of the federal
10 Patient Protection and Affordable Care Act (42 U.S.C. Sec. 18116)
11 may request a waiver from the requirements under this section.

12 (2) The department shall not grant a waiver under this
13 subdivision to a specialized health insurance policy that arranges
14 for mental health or behavioral health benefits.

15 (3) The department shall provide information on its ~~Internet~~
16 ~~Web site~~ *internet website* about any waivers granted under this
17 subdivision.

18 (e) *This section does not require an individual with limited*
19 *English proficiency to accept language assistance services.*

20 SEC. 11. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.