

**ASSEMBLY BILL**

**No. 980**

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**Introduced by Assembly Member Arambula**

February 20, 2025

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An act to amend Section 3428 of the Civil Code, relating to health care.

LEGISLATIVE COUNSEL’S DIGEST

AB 980, as introduced, Arambula. Health care service plan: managed care entity: duty of care.

Under existing law, a health care service plan or managed care entity has a duty of ordinary care to arrange for the provision of medically necessary health care services to its subscribers or enrollees and is liable for all harm legally caused by its failure to exercise that ordinary care when the failure resulted in the denial, delay, or modification of the health care service recommended for, or furnished to, a subscriber or enrollee and the subscriber or enrollee suffers substantial harm, as defined.

This bill would define “medically necessary health care service” for purposes of the above-described provision to mean legally prescribed medical care that is reasonable and comports with the medical community standard.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1     SECTION 1. Section 3428 of the Civil Code is amended to  
2     read:

3428. (a) For services rendered on or after January 1, 2001, a health care service plan or managed care entity, as described in subdivision (f) of Section 1345 of the Health and Safety Code, shall have a duty of ordinary care to arrange for the provision of medically necessary health care service to its subscribers and enrollees, ~~where if~~ *if* the health care service is a benefit provided under the ~~plan,~~ *plan or through the entity*, and shall be liable for ~~any and~~ all harm legally caused by its failure to exercise that ordinary care when both of the following apply:

(1) The failure to exercise ordinary care resulted in the denial, delay, or modification of the health care service recommended for, or furnished to, a subscriber or enrollee.

(2) The subscriber or enrollee suffered substantial harm.

(b) *(1)* For purposes of this section: ~~(1) substantial harm~~ (A) “*substantial harm*” means loss of life, loss or significant impairment of limb or bodily function, significant disfigurement, severe and chronic physical pain, or significant financial loss; ~~(2)~~ (B) health care services need not be recommended or furnished by an in-plan provider, but may be recommended or furnished by ~~any~~ *a* health care provider practicing within the scope of ~~his or her~~ *the provider’s* practice; and ~~(3)~~ (C) health care services shall be recommended or furnished at any time prior to the inception of the action, and the recommendation need not be made prior to the occurrence of substantial harm.

*(2) For purposes of this section, “medically necessary health care service” means legally prescribed medical care that is reasonable and comports with the medical community standard.*

(c) Health care service plans and managed care entities are not health care providers under ~~any provision of~~ law, including, but not limited to, Section 6146 of the Business and Professions Code, Sections 3333.1 or 3333.2 of this code, or Sections 340.5, 364, 425.13, 667.7, or 1295 of the Code of Civil Procedure.

(d) A health care service plan or managed care entity shall not seek indemnity, whether contractual or equitable, from a provider for liability imposed under subdivision (a). Any provision to the contrary in a contract with providers is void and unenforceable.

(e) This section shall not create ~~any~~ *a* liability on the part of an employer or an employer group purchasing organization that purchases coverage or assumes risk on behalf of its employees or on behalf of self-funded employee benefit plans.

1 (f) ~~Any waiver~~ *Waiver* by a subscriber or enrollee of the  
2 provisions of this section is contrary to public policy and shall be  
3 unenforceable and void.

4 (g) This section does not create any new or additional liability  
5 on the part of a health care service plan or managed care entity for  
6 harm caused that is attributable to the medical negligence of a  
7 treating physician or other treating health care provider.

8 (h) This section does not abrogate or limit any other theory of  
9 liability otherwise available at law.

10 (i) This section ~~shall~~ *does* not apply in instances where  
11 subscribers or enrollees receive treatment by prayer, consistent  
12 with the provisions of subdivision (a) of Section 1270 of the Health  
13 and Safety Code, in lieu of medical treatment.

14 (j) Damages recoverable for a violation of this section include,  
15 but are not limited to, those set forth in Section 3333.

16 (k) (1) A person may not maintain a cause of action pursuant  
17 to this section against ~~any~~ *an* entity required to comply with ~~any~~  
18 *an* independent medical review system or independent review  
19 system required by law unless the person or ~~his or her~~ *the person's*  
20 representative has exhausted the procedures provided by the  
21 applicable independent review system.

22 (2) Compliance with paragraph (1) is not required in a case  
23 where either of the following applies:

24 (A) Substantial harm, as defined in subdivision (b), has occurred  
25 prior to the completion of the applicable review.

26 (B) Substantial harm, as defined, in subdivision (b), will  
27 imminently occur prior to the completion of the applicable review.

28 ~~(3) This subdivision shall become operative only if Senate Bill~~  
29 ~~189 and Assembly Bill 55 of the 1999–2000 Regular Session are~~  
30 ~~also enacted and enforceable.~~

31 (l) If any provision of this section or the application thereof to  
32 ~~any~~ *a* person or circumstance is held to be unconstitutional or  
33 otherwise invalid or unenforceable, the remainder of the section  
34 and the application of those provisions to other persons or  
35 circumstances shall not be affected ~~thereby~~ *by that holding*.