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AMENDED IN ASSEMBLY APRIL 27, 2021

AMENDED IN ASSEMBLY APRIL 8, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 457

Introduced by Assembly Member Santiago
(Coauthor: Assembly Member Robert Rivas)
(Coauthor: Senator Stern)

February 8, 2021

An act to amend Section 650 of the Business and Professions Code, *to amend Section 1374.14 of, and to add Section 1374.141 to, the Health and Safety Code, and to amend Section 10123.855 of, and to add Section 10123.856 to, the Insurance Code, relating to telehealth.*

LEGISLATIVE COUNSEL'S DIGEST

AB 457, as amended, Santiago. Protection of Patient Choice in Telehealth Provider Act.

(1) Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Under existing law, it is unlawful for healing arts licensees, except as specified, to offer, deliver, receive, or accept any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, in the form of money or otherwise, as

compensation or inducement for referring patients, clients, or customers to any person, subject to certain exceptions.

This bill would provide that the payment or receipt of consideration for internet-based advertising, appointment booking, or any service that provides information and resources to prospective patients of licensees does not constitute a referral of a patient if the internet-based service provider does not ~~recommend, endorse, arrange for, or otherwise select a licensee for the~~ *recommend or endorse a specific licensee to a* prospective patient.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires a contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan or health insurer and a health care provider to require the plan or insurer to reimburse the provider for the diagnosis, consultation, or treatment of an enrollee, subscriber, insured, or policyholder appropriately delivered through telehealth services on the same basis and to the same extent as the same service through in-person diagnosis, consultation, or treatment.

This bill would delete that date restriction, thereby extending the telehealth reimbursement parity requirement for all contracts between a health care service plan or a health insurer and a health care provider. The bill would provide that these provisions are severable.

This

The bill would also enact the Protection of Patient Choice in Telehealth Provider Act, and would require a health care service plan and a health insurer to comply with specified notice and consent requirements if the plan or insurer offers a service via telehealth to an enrollee or an insured through a third-party corporate telehealth provider, as defined. For an enrollee or insured that receives specialty telehealth services for a mental or behavioral health condition, the bill would require that the enrollee or insured be given the option of continuing to receive that service with the contracting individual health professional, a contracting clinic, or a contracting health facility. The bill would exempt specified health care service plan contracts and Medi-Cal managed care plan contracts from those provisions. The bill would require the State Department of Health Care Services to consider the appropriateness of applying those requirements to the Medi-Cal

program, as specified. Because a willful violation of the bill’s requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. This act shall be known and may be cited as the
2 Protection of Patient Choice in Telehealth Provider Act.

3
4 Protection of Patient Choice in Telehealth Provider Act

5
6 SEC. 2. The Legislature finds and declares both of the
7 following:

8 (a) The purpose of telehealth is to allow a patient to interact
9 with the patient’s physician or other health care provider when
10 safety or convenience make in-person treatments difficult or
11 impossible.

12 (b) Third-party telehealth corporations should coordinate with
13 a patient’s usual source of care and contribute to the longitudinal
14 patient record in order to be part of a comprehensive, integrated
15 health care system.

16 SEC. 3. Section 650 of the Business and Professions Code is
17 amended to read:

18 650. (a) Except as provided in Chapter 2.3 (commencing with
19 Section 1400) of Division 2 of the Health and Safety Code, the
20 offer, delivery, receipt, or acceptance by any person licensed under
21 this division or the Chiropractic Initiative Act of any rebate, refund,
22 commission, preference, patronage dividend, discount, or other
23 consideration, whether in the form of money or otherwise, as
24 compensation or inducement for referring patients, clients, or
25 customers to any person, irrespective of any membership,
26 proprietary interest, or coownership in or with any person to whom
27 these patients, clients, or customers are referred is unlawful.

1 (b) The payment or receipt of consideration for services other
2 than the referral of patients that is based on a percentage of gross
3 revenue or similar type of contractual arrangement shall not be
4 unlawful if the consideration is commensurate with the value of
5 the services furnished or with the fair rental value of any premises
6 or equipment leased or provided by the recipient to the payer.

7 (c) The offer, delivery, receipt, or acceptance of any
8 consideration between a federally qualified health center, as defined
9 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,
10 and any individual or entity providing goods, items, services,
11 donations, loans, or a combination thereof to the health center
12 entity pursuant to a contract, lease, grant, loan, or other agreement,
13 if that agreement contributes to the ability of the health center
14 entity to maintain or increase the availability, or enhance the
15 quality, of services provided to a medically underserved population
16 served by the health center, shall be authorized only to the extent
17 sanctioned or permitted by federal law.

18 (d) Except as provided in Chapter 2.3 (commencing with Section
19 1400) of Division 2 of the Health and Safety Code and in Sections
20 654.1 and 654.2 of this code, it shall not be unlawful for any person
21 licensed under this division to refer a person to any laboratory,
22 pharmacy, clinic, including entities exempt from licensure pursuant
23 to Section 1206 of the Health and Safety Code, or health care
24 facility solely because the licensee has a proprietary interest or
25 coownership in the laboratory, pharmacy, clinic, or health care
26 facility, provided, however, that the licensee's return on investment
27 for that proprietary interest or coownership shall be based upon
28 the amount of the capital investment or proportional ownership of
29 the licensee which ownership interest is not based on the number
30 or value of any patients referred. Any referral excepted under this
31 section shall be unlawful if the prosecutor proves that there was
32 no valid medical need for the referral.

33 (e) Except as provided in Chapter 2.3 (commencing with Section
34 1400) of Division 2 of the Health and Safety Code and in Sections
35 654.1 and 654.2 of this code, it shall not be unlawful to provide
36 nonmonetary remuneration, in the form of hardware, software, or
37 information technology and training services, as described in
38 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code
39 of Federal Regulations, as amended October 4, 2007, as published

1 in the Federal Register (72 Fed. Reg. 56632 and 56644), and as
2 subsequently amended.

3 (f) “Health care facility” means a general acute care hospital,
4 acute psychiatric hospital, skilled nursing facility, intermediate
5 care facility, and any other health facility licensed by the State
6 Department of Public Health under Chapter 2 (commencing with
7 Section 1250) of Division 2 of the Health and Safety Code.

8 (g) Notwithstanding this section or any other law, the payment
9 or receipt of consideration for advertising, wherein a licensee offers
10 or sells services through a third-party advertiser, shall not constitute
11 a referral of patients when the third-party advertiser does not itself
12 recommend, endorse, or otherwise select a licensee. The fee paid
13 to the third-party advertiser shall be commensurate with the service
14 provided by the third-party advertiser. If the licensee determines,
15 after consultation with the purchaser of the service, that the service
16 provided by the licensee is inappropriate for the purchaser or if
17 the purchaser elects not to receive the service for any reason and
18 requests a refund, the purchaser shall receive a refund of the full
19 purchase price as determined by the terms of the advertising service
20 agreement between the third-party advertiser and the licensee. The
21 licensee shall disclose in the advertisement that a consultation is
22 required and that the purchaser will receive a refund if ineligible
23 to receive the service. This subdivision shall not apply to basic
24 health care services, as defined in subdivision (b) of Section 1345
25 of the Health and Safety Code, or essential health benefits, as
26 defined in Section 1367.005 of the Health and Safety Code and
27 Section 10112.27 of the Insurance Code. The entity that provides
28 the advertising shall be able to demonstrate that the licensee
29 consented in writing to the requirements of this subdivision. A
30 third-party advertiser shall make available to prospective purchasers
31 advertisements for services of all licensees then advertising through
32 the third-party advertiser in the applicable geographic region. In
33 any advertisement offering a discount price for a service, the
34 licensee shall also disclose the regular, nondiscounted price for
35 that service.

36 ~~(h) Notwithstanding this section or any other law,~~ *To the extent*
37 *consistent with federal law, regulations, or guidance,* the payment
38 or receipt of consideration for internet-based advertising,
39 appointment booking, or any service that provides information
40 and resources to prospective patients of licensees shall not

1 constitute a referral of a patient if the internet-based service
2 provider does not ~~recommend, endorse, arrange for, or otherwise~~
3 ~~select a licensee for the~~ *recommend or endorse a specific licensee*
4 *to a prospective patient.*

5 (i) A violation of this section is a public offense and is
6 punishable upon a first conviction by imprisonment in a county
7 jail for not more than one year, or by imprisonment pursuant to
8 subdivision (h) of Section 1170 of the Penal Code, or by a fine not
9 exceeding fifty thousand dollars (\$50,000), or by both that
10 imprisonment and fine. A second or subsequent conviction is
11 punishable by imprisonment pursuant to subdivision (h) of Section
12 1170 of the Penal Code, or by that imprisonment and a fine of fifty
13 thousand dollars (\$50,000).

14 *SEC. 4. Section 1374.14 of the Health and Safety Code is*
15 *amended to read:*

16 1374.14. (a) (1) A contract ~~issued, amended, or renewed on~~
17 ~~or after January 1, 2021,~~ between a health care service plan and a
18 health care provider for the provision of health care services to an
19 enrollee or subscriber shall specify that the health care service plan
20 shall reimburse the treating or consulting health care provider for
21 the diagnosis, consultation, or treatment of an enrollee or subscriber
22 appropriately delivered through telehealth services on the same
23 basis and to the same extent that the health care service plan is
24 responsible for reimbursement for the same service through
25 in-person diagnosis, consultation, or treatment.

26 (2) This section does not limit the ability of a health care service
27 plan and a health care provider to negotiate the rate of
28 reimbursement for a health care service provided pursuant to a
29 contract subject to this section. Services that are the same, as
30 determined by the provider's description of the service on the
31 claim, shall be reimbursed at the same rate whether provided in
32 person or through telehealth. When negotiating a rate of
33 reimbursement for telehealth services for which no in-person
34 equivalent exists, a health care service plan and the provider shall
35 ensure the rate is consistent with subdivision (h) of Section 1367.

36 (3) This section does not require telehealth reimbursement to
37 be unbundled from other capitated or bundled, risk-based payments.

38 (b) (1) A health care service plan contract ~~issued, amended, or~~
39 ~~renewed on or after January 1, 2021,~~ shall specify that the health
40 care service plan shall provide coverage for health care services

1 appropriately delivered through telehealth services on the same
2 basis and to the same extent that the health care service plan is
3 responsible for coverage for the same service through in-person
4 diagnosis, consultation, or treatment. Coverage shall not be limited
5 only to services delivered by select third-party corporate telehealth
6 providers.

7 (2) This section does not alter the obligation of a health care
8 service plan to ensure that enrollees have access to all covered
9 services through an adequate network of contracted providers, as
10 required under Sections 1367, 1367.03, and 1367.035, and the
11 regulations promulgated thereunder.

12 (3) This section does not require a health care service plan to
13 cover telehealth services provided by an out-of-network provider,
14 unless coverage is required under other provisions of law.

15 (c) A health care service plan may offer a contract containing
16 a copayment or coinsurance requirement for a health care service
17 delivered through telehealth services, provided that the copayment
18 or coinsurance does not exceed the copayment or coinsurance
19 applicable if the same services were delivered through in-person
20 diagnosis, consultation, or treatment. This subdivision does not
21 require cost sharing for services provided through telehealth.

22 (d) Services provided through telehealth and covered pursuant
23 to this chapter shall be subject to the same deductible and annual
24 or lifetime dollar maximum as equivalent services that are not
25 provided through telehealth.

26 (e) The definitions in subdivision (a) of Section 2290.5 of the
27 Business and Professions Code apply to this section.

28 (f) This section shall not apply to Medi-Cal managed care plans
29 that contract with the State Department of Health Care Services
30 pursuant to Chapter 7 (commencing with Section 14000) of,
31 Chapter 8 (commencing with Section 14200) of, or Chapter 8.75
32 (commencing with Section 14591) of, Part 3 of Division 9 of the
33 Welfare and Institutions Code.

34 (g) *The provisions of this section are severable. If any provision*
35 *of this section or its application is held invalid, that invalidity shall*
36 *not affect other provisions or applications that can be given effect*
37 *without the invalid provision or application.*

38 ~~SEC. 4.~~

39 *SEC. 5.* Section 1374.141 is added to the Health and Safety
40 Code, immediately following Section 1374.14, to read:

1 1374.141. (a) If a health care service plan offers a service via
2 telehealth to an enrollee through a third-party corporate telehealth
3 provider, all of the following conditions shall be met:

4 (1) The health care service plan shall disclose to the enrollee in
5 any promotion or coordination of the service both of the following:

6 (A) The availability of receiving the service on an in-person
7 basis or via telehealth, if available, from the enrollee's primary
8 care provider, treating specialist, or from another contracting
9 individual health professional, contracting clinic, or contracting
10 health facility consistent with the service and existing timeliness
11 and geographic access standards in Sections 1367 and 1367.03
12 and regulations promulgated thereunder.

13 (B) If the enrollee has coverage for out-of-network benefits, a
14 reminder of the availability of receiving the service either via
15 telehealth or on an in-person basis using the enrollee's
16 out-of-network benefits, and the cost sharing obligation for
17 out-of-network benefits compared to in-network benefits and
18 balance billing protections for services received from contracted
19 providers.

20 (2) After being notified pursuant to paragraph (1), the enrollee
21 ~~elects~~ *chooses* to receive the service via telehealth through a
22 third-party corporate telehealth provider.

23 (3) The enrollee consents to the service consistent with Section
24 2290.5 of the Business and Professions Code.

25 (4) If the enrollee is currently receiving specialty telehealth
26 services for a mental or behavioral health condition, the enrollee
27 is given the option of continuing to receive that service with the
28 contracting individual health professional, a contracting clinic, or
29 a contracting health facility.

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

31 (1) "Contracting individual health professional" means a
32 physician and surgeon or other professional who is licensed by the
33 state to deliver or furnish health care services, including mental
34 and behavioral health services, and who is contracted with *or*
35 *employed by* the enrollee's health care service ~~plan~~. *plan as a*
36 *network provider*. A "contracting individual health professional"
37 shall not include a dentist licensed pursuant to the Dental Practice
38 Act (Chapter 4 (commencing with Section 1600) of Division 2 of
39 the Business and Professions Code). Application of this definition

1 is not precluded by a contracting individual health professional’s
2 affiliation with a group.

3 (2) “Contracting clinic” means a clinic, as defined in Section
4 1200, that is contracted with *or owned by* the enrollee’s health care
5 service ~~plan~~. *plan and as a network provider.*

6 (3) “Contracting health facility” means a health facility, as
7 defined in Section ~~1250~~, *1250 and paragraph (1) of subdivision*
8 *(f) of Section 1371.9*, that is contracted with *or operated by* the
9 enrollee’s health care service ~~plan~~. *plan and serves as a network*
10 *provider.*

11 (4) “Third-party corporate telehealth provider” means a
12 corporation directly contracted with a health care service plan that
13 provides health care services exclusively through a telehealth
14 technology platform and has no physical location at which a patient
15 can receive services.

16 (c) If services are provided to an enrollee through a third-party
17 corporate telehealth provider, a health care service plan shall
18 comply with all of the following:

19 (1) Notify the enrollee of their right to access their medical
20 records pursuant to, and consistent with, Chapter 1 (commencing
21 with Section 123100) of Part 1 of Division 106.

22 (2) Notify the enrollee that the record of any services provided
23 to the enrollee through a third-party corporate telehealth provider
24 shall be shared with their primary care provider, unless the enrollee
25 objects.

26 (3) Ensure that the records are entered into a patient record
27 system shared with the enrollee’s primary care provider or are
28 otherwise provided to the enrollee’s primary care provider, unless
29 the enrollee objects, in a manner consistent with state and federal
30 law.

31 (4) Notify the enrollee that all services received through the
32 third-party corporate telehealth provider are ~~considered to be in~~
33 ~~network~~. *available at in-network cost-sharing and out-of-pocket*
34 *costs shall accrue to any applicable deductible or out-of-pocket*
35 *maximum.*

36 (d) A health care service plan shall include in its reports
37 submitted to the department pursuant to Section 1367.035 and
38 regulations adopted pursuant to that section, in a manner specified
39 by the department, all of the following for each product type:

1 (1) By specialty, the total number of services delivered via
2 telehealth by third-party corporate telehealth providers.

3 (2) The names of each third-party corporate telehealth provider
4 contracted with the plan and, for each, the number of services
5 provided by specialty.

6 (3) For each third-party corporate telehealth provider with which
7 it contracts, the percentage of the third-party corporate telehealth
8 provider's contracted providers available to the plan's enrollees
9 that are also contracting individual health professionals.

10 (4) For each third-party corporate telehealth provider with which
11 it contracts, the types of telehealth services utilized by enrollees,
12 including frequency of use, gender, age, and any other information
13 as determined by the department.

14 (5) *For each enrollee that has accessed services for a third-party
15 corporate telehealth provider, enrollee demographic data,
16 including gender and age, and any other information as determined
17 by the department.*

18 (e) The director shall investigate and take enforcement action,
19 as appropriate, against a health care service plan that fails to
20 comply with these requirements and shall periodically evaluate
21 contracts between health care service plans and third-party
22 corporate telehealth providers to determine if any audit, evaluation,
23 or enforcement actions should be undertaken by the department.

24 (f) If a health care service plan delegates ~~payment functions~~
25 *responsibilities under this section* to a contracted entity, including,
26 but not limited to, a medical group or independent practice
27 association, the delegated entity shall comply with this section.

28 (g) This section shall not apply when an enrollee seeks services
29 directly from a third-party corporate telehealth ~~provider that is not
30 contracted with the enrollee's health care service plan.~~ *provider.*

31 (h) *This section shall not apply to a health care service plan
32 contract or a Medi-Cal managed care plan contract with the State
33 Department of Health Care Services pursuant to Chapter 7
34 (commencing with Section 14000) or Chapter 8 (commencing with
35 Section 14200) of Part 3 of Division 9 of the Welfare and
36 Institutions Code. The State Department of Health Care Services
37 shall consider the appropriateness of applying the requirements
38 of this section, in whole or in part, to the Medi-Cal program
39 pursuant to the advisory group process described in paragraph*

1 (2) of subdivision (f) of section 14124.12 of the Welfare and
2 Institutions Code.

3 SEC. 6. Section 10123.855 of the Insurance Code is amended
4 to read:

5 10123.855. (a) (1) A contract ~~issued, amended, or renewed~~
6 ~~on or after January 1, 2021,~~ between a health insurer and a health
7 care provider for an alternative rate of payment pursuant to Section
8 10133 shall specify that the health insurer shall reimburse the
9 treating or consulting health care provider for the diagnosis,
10 consultation, or treatment of an insured or policyholder
11 appropriately delivered through telehealth services on the same
12 basis and to the same extent that the health insurer is responsible
13 for reimbursement for the same service through in-person
14 diagnosis, consultation, or treatment.

15 (2) This section does not limit the ability of a health insurer and
16 a health care provider to negotiate the rate of reimbursement for
17 a health care service provided pursuant to a contract subject to this
18 section. Services that are the same, as determined by the provider's
19 description of the service on the claim, shall be reimbursed at the
20 same rate whether provided in person or through telehealth. When
21 negotiating a rate of reimbursement for telehealth services for
22 which no in-person equivalent exists, a health insurer and the
23 provider shall ensure the rate is consistent with subdivision (a) of
24 Section 10123.137.

25 (b) (1) A policy of health insurance ~~issued, amended, or~~
26 ~~renewed on or after January 1, 2021,~~ that provides benefits through
27 contracts with providers at alternative rates of payment shall
28 specify that the health insurer shall provide coverage for health
29 care services appropriately delivered through telehealth services
30 on the same basis and to the same extent that the health insurer is
31 responsible for coverage for the same service through in-person
32 diagnosis, consultation, or treatment. Coverage shall not be limited
33 only to services delivered by select third-party corporate telehealth
34 providers.

35 (2) This section does not alter the existing statutory or regulatory
36 obligations of a health insurer to ensure that insureds have access
37 to all covered services through an adequate network of contracted
38 providers, as required by Sections 10133 and 10133.5 and the
39 regulations promulgated thereunder.

1 (3) This section does not require a health insurer to deliver health
2 care services through telehealth services.

3 (4) This section does not require a health insurer to cover
4 telehealth services provided by an out-of-network provider, unless
5 coverage is required under other provisions of law.

6 (c) A health insurer may offer a policy containing a copayment
7 or coinsurance requirement for a health care service delivered
8 through telehealth services, provided that the copayment or
9 coinsurance does not exceed the copayment or coinsurance
10 applicable if the same services were delivered through in-person
11 diagnosis, consultation, or treatment. This subdivision does not
12 require cost sharing for services provided through telehealth.

13 (d) Services provided through telehealth and covered pursuant
14 to this chapter shall be subject to the same deductible and annual
15 or lifetime dollar maximum as equivalent services that are not
16 provided through telehealth.

17 (e) The definitions in subdivision (a) of Section 2290.5 of the
18 Business and Professions Code apply to this section.

19 (f) *The provisions of this section are severable. If any provision*
20 *of this section or its application is held invalid, that invalidity shall*
21 *not affect other provisions or applications that can be given effect*
22 *without the invalid provision or application.*

23 ~~SEC. 5.~~

24 SEC. 7. Section 10123.856 is added to the Insurance Code, to
25 read:

26 10123.856. (a) If a health insurer offers a service via telehealth
27 to an insured through a third-party corporate telehealth provider,
28 all of the following conditions shall be met:

29 (1) The health insurer shall disclose to the insured in any
30 promotion or coordination of the service both of the following:

31 (A) The availability of receiving the service on an in-person
32 basis or via telehealth, if available, from the insured's primary care
33 provider, treating specialist, or from another contracting individual
34 health professional, a contracting clinic, or a contracting health
35 facility consistent with the service and existing timeliness and
36 geographic access standards in Section 10133.5 and regulations
37 promulgated thereunder.

38 (B) If the insured has coverage for out-of-network benefits, a
39 reminder of the availability of receiving the service either via
40 telehealth or on an in-person basis using the insured's

1 out-of-network benefits, and the cost sharing obligation for
2 out-of-network benefits compared to in-network benefits and
3 balance billing protections for services received from contracted
4 providers.

5 (2) After being notified pursuant to paragraph (1), the insured
6 ~~elects~~ *chooses* to receive the service via telehealth through a
7 third-party corporate telehealth provider.

8 (3) The insured consents to the service consistent with Section
9 2290.5 of the Business and Professions Code.

10 (4) If the insured is currently receiving specialty telehealth
11 services for a mental or behavioral health condition, the insured
12 is given the option of continuing to receive that service with the
13 contracting individual health professional, a contracting clinic, or
14 a contracting health facility.

15 (b) For purposes of this section, the following definitions shall
16 apply:

17 (1) “Contracting individual health professional” means a
18 physician and surgeon or other professional who is licensed by the
19 state to deliver or furnish health care services, including mental
20 or behavioral health services, and who is contracted with the
21 insured’s health insurer. A “contracting individual health
22 professional” shall not include a dentist licensed pursuant to the
23 Dental Practice Act (Chapter 4 (commencing with Section 1600)
24 of Division 2 of the Business and Professions Code). Application
25 of this definition is not precluded by a contracting individual health
26 professional’s affiliation with a group.

27 (2) “Contracting clinic” means a clinic, as defined in Section
28 1200 of the Health and Safety Code, that is contracted with the
29 insured’s health insurer.

30 (3) “Contracting health facility” mean a health facility, as
31 defined in Section 1250 of the Health and Safety Code, that is
32 contracted with the insured’s health insurer.

33 (4) “Third-party corporate telehealth provider” means a
34 corporation directly contracted with a health insurer that provides
35 health care services exclusively through a telehealth technology
36 platform and has no physical location at which a patient can receive
37 services.

38 (c) If services are provided to an insured through a third-party
39 corporate telehealth provider, a health insurer shall comply with
40 all of the following:

1 (1) Notify the insured of the insured's right to access the
2 insured's medical records pursuant to, and consistent with, Chapter
3 1 (commencing with Section 123100) of Part 1 of Division 106 of
4 the Health and Safety Code.

5 (2) Notify the insured that the record of any services provided
6 to the insured through a third-party corporate telehealth provider
7 shall be shared with the insured's primary care provider, unless
8 the insured objects.

9 (3) Ensure that the records are entered into a patient record
10 system shared with the insured's primary care provider or are
11 otherwise provided to the insured's primary care provider, unless
12 the insured objects, in a manner consistent with state and federal
13 law.

14 (4) Notify the insured that all services received through the
15 third-party corporate telehealth provider are considered to be in
16 ~~network~~. *network available at in-network cost-sharing and*
17 *out-of-pocket costs shall accrue to any applicable deductible or*
18 *out-of-pocket maximum.*

19 (d) A health insurer shall include in its reports submitted to the
20 department pursuant to Section 10133.5 and regulations adopted
21 pursuant to that section, in a manner specified by the commissioner,
22 all of the following for each product type:

23 (1) By specialty, the total number of services delivered via
24 telehealth provided by third-party corporate telehealth providers.

25 (2) The names of each third-party corporate telehealth provider
26 contracted with the insurer and, for each, the number of services
27 provided by specialty.

28 (3) For each third-party corporate telehealth provider with which
29 it contracts, the percentage of the third-party corporate telehealth
30 provider's contracted providers available to the insurer's insured
31 that are also contracting individual health professionals.

32 (4) For each third-party corporate telehealth provider with which
33 it contracts, the types of telehealth services utilized by insureds,
34 including frequency of use, gender, age, and any other information
35 as determined by the department.

36 (5) *For each enrollee that has accessed services for a third-party*
37 *corporate telehealth provider, enrollee demographic data,*
38 *including gender and age, and any other information as determined*
39 *by the department.*

1 (e) The commissioner shall investigate and take enforcement
2 action, as appropriate, against a health insurer that fails to comply
3 with these requirements and shall periodically evaluate contracts
4 between health insurers and third-party corporate telehealth
5 providers to determine if any audit, evaluation, or enforcement
6 actions should be undertaken by the commissioner.

7 (f) This section shall not apply when an insured seeks services
8 directly from a third-party corporate telehealth provider that is not
9 contracted with the insured's health insurer. *provider.*

10 ~~SEC. 6.~~

11 *SEC. 8.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

O