

AMENDED IN ASSEMBLY JANUARY 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1400

**Introduced by Assembly Members Kalra, Lee, and Santiago
(Principal coauthors: Assembly Members ~~Chiu~~ Chiu, Ting, Bryan,
and Carrillo)**

(Principal coauthors: Senators Gonzalez, McGuire, and Wiener)
**(Coauthors: Assembly Members Friedman, McCarty, Nazarian,
Luz Rivas, Wicks, and Mia Bonta)**

(Coauthors: Senators Becker, Cortese, Laird, Kamlager, and
Wieckowski)

February 19, 2021

An act to add Title 23 (commencing with Section 100600) to the Government Code, relating to health care coverage, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1400, as amended, Kalra. Guaranteed Health Care for All.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), requires each state to establish an American Health Benefit Exchange to facilitate the purchase of qualified health benefit plans by qualified individuals and qualified small employers. PPACA defines a "qualified health plan" as a plan that, among other requirements, provides an essential health benefits package. Existing state law creates the California Health Benefit Exchange, also known as Covered California, to facilitate the enrollment of qualified individuals and qualified small employers in qualified health plans as required under PPACA.

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. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill, the California Guaranteed Health Care for All Act, would create the California Guaranteed Health Care for All program, or CalCare, to provide comprehensive universal single-payer health care coverage and a health care cost control system for the benefit of all residents of the state. The bill, among other things, would provide that CalCare cover a wide range of medical benefits and other services and would incorporate the health care benefits and standards of other existing federal and state provisions, including the federal Children's Health Insurance Program, Medi-Cal, ancillary health care or social services covered by regional centers for persons with developmental disabilities, Knox-Keene, and the federal Medicare program. The bill would require the board to seek all necessary waivers, approvals, and agreements to allow various existing federal health care payments to be paid to CalCare, which would then assume responsibility for all benefits and services previously paid for with those funds.

This bill would create the CalCare Board to govern CalCare, made up of 9 voting members with demonstrated and acknowledged expertise in health care, and appointed as provided, plus the Secretary of California Health and Human Services or their designee as a nonvoting, ex officio member. The bill would provide the board with all the powers and duties necessary to establish CalCare, including determining when individuals may start enrolling into CalCare, employing necessary staff, negotiating pricing for covered pharmaceuticals and medical supplies, establishing a prescription drug formulary, and negotiating and entering into necessary contracts. *The bill would require the board, on or before July 1, 2024, to conduct and deliver a fiscal analysis to determine whether or not CalCare may be implemented and whether revenue is more likely than not to pay for program costs, as specified.* The bill would require the board to convene a CalCare Public Advisory Committee with specified members to advise the board on all matters of policy for CalCare. The bill would establish an 11-member Advisory

Commission on Long-Term Services and Supports to advise the board on matters of policy related to long-term services and supports.

This bill would provide for the participation of health care providers in CalCare, including the requirements of a participation agreement between a health care provider and the board, provide for payment for health care items and services, and specify program participation standards. The bill would prohibit a participating provider from discriminating against a person by, among other things, reducing or denying a person's benefits under CalCare because of a specified characteristic, status, or condition of the person.

This bill would prohibit a participating provider from billing or entering into a private contract with an individual eligible for CalCare benefits regarding a covered benefit, but would authorize contracting for a health care item or service that is not a covered benefit if specified criteria are met. The bill would authorize health care providers to collectively negotiate fee-for-service rates of payment for health care items and services using a 3rd-party representative, as provided. The bill would require the board to annually determine an institutional provider's global budget, to be used to cover operating expenses related to covered health care items and services for that fiscal year, and would authorize payments under the global budget.

This bill would state the intent of the Legislature to enact legislation that would develop a revenue plan, taking into consideration anticipated federal revenue available for CalCare. The bill would create the CalCare Trust Fund in the State Treasury, as a continuously appropriated fund, consisting of any federal and state moneys received for the purposes of the act. Because the bill would create a continuously appropriated fund, it would make an appropriation.

This bill would prohibit specified provisions of this act from becoming operative until the Secretary of California Health and Human Services gives written notice to the Secretary of the Senate and the Chief Clerk of the Assembly that the CalCare Trust Fund has the revenues to fund the costs of implementing the ~~act~~. *act, the people of California have approved the necessary revenue mechanisms, and the Legislature has approved implementation of the CalCare by statute.* The California Health and Human Services Agency would be required to publish a copy of the notice on its internet website.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the

interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Although the federal Patient Protection and Affordable Care
- 4 Act (PPACA) brought many improvements in health care and
- 5 health care coverage, PPACA still leaves many Californians
- 6 without coverage or with inadequate coverage.
- 7 (2) Californians, as individuals, employers, and taxpayers, have
- 8 experienced a rise in the cost of health care and health care
- 9 coverage in recent years, including rising premiums, deductibles,
- 10 and copayments, as well as restricted provider networks and high
- 11 out-of-network charges.
- 12 (3) Businesses have also experienced increases in the costs of
- 13 health care benefits for their employees, and many employers are
- 14 shifting a larger share of the cost of coverage to their employees
- 15 or dropping coverage entirely.
- 16 (4) Individuals often find that they are deprived of affordable
- 17 care and choice because of decisions by health benefit plans guided
- 18 by the plan’s economic needs rather than patients’ health care
- 19 needs.
- 20 (5) To address the fiscal crisis facing the health care system and
- 21 the state, and to ensure Californians get the health care they need,
- 22 comprehensive health care coverage needs to be provided.
- 23 (6) Billions of dollars that could be spent on providing equal
- 24 access to health care are wasted on administrative costs necessary
- 25 in a multipayer health care system. Resources and costs spent on
- 26 administration would be dramatically reduced in a single-payer
- 27 system, allowing health care professionals and hospitals to focus
- 28 on patient care instead.
- 29 (7) It is the intent of the Legislature to establish a comprehensive
- 30 universal single-payer health care coverage program and a health
- 31 care cost control system for the benefit of all residents of the state.

1 (b) (1) It is further the intent of the Legislature to establish the
2 California Guaranteed Health Care for All program to provide
3 universal health coverage for every Californian, funded by
4 broad-based revenue.

5 (2) It is the intent of the Legislature to work to obtain waivers
6 and other approvals relating to Medi-Cal, the federal Children's
7 Health Insurance Program, Medicare, PPACA, and any other
8 federal programs pertaining to the provision of health care so that
9 any federal funds and other subsidies that would otherwise be paid
10 to the State of California, Californians, and health care providers
11 would be paid by the federal government to the State of California
12 and deposited in the CalCare Trust Fund.

13 (3) Under those waivers and approvals, those funds would be
14 used for health care coverage that provides health care benefits
15 equal to or exceeded by those programs as well as other program
16 modifications, including elimination of cost sharing and insurance
17 premiums.

18 (4) Those programs would be replaced and merged into CalCare,
19 which will operate as a true single-payer program.

20 (5) If any necessary waivers or approvals are not obtained, it is
21 the intent of the Legislature that the state use state plan
22 amendments and seek waivers and approvals to maximize, and
23 make as seamless as possible, the use of funding from federally
24 matched public health programs and other federal health programs
25 in CalCare.

26 (6) Even if other programs, including Medi-Cal or Medicare,
27 may contribute to paying for care, it is the goal of this act that the
28 coverage be delivered by CalCare, and, as much as possible, that
29 the multiple sources of funding be pooled with other CalCare
30 program funds.

31 (c) This act does not create an employment benefit, nor does
32 the act require, prohibit, or limit providing a health care
33 employment benefit.

34 (d) (1) It is not the intent of the Legislature to change or impact
35 in any way the role or authority of a licensing board or state agency
36 that regulates the standards for or provision of health care and the
37 standards for health care providers as established under current
38 law, including the Business and Professions Code, the Health and
39 Safety Code, the Insurance Code, and the Welfare and Institutions
40 Code.

1 (2) This act would in no way authorize the CalCare Board, the
2 California Guaranteed Health Care for All program, or the
3 Secretary of California Health and Human Services to establish
4 or revise licensure standards for health care professionals or
5 providers.

6 (e) It is the intent of the Legislature that neither health
7 information technology nor clinical practice guidelines limit the
8 effective exercise of the professional judgment of physicians,
9 registered nurses, and other licensed health care professionals.
10 Physicians, registered nurses, and other licensed health care
11 professionals shall be free to override health information
12 technology and clinical practice guidelines if, in their professional
13 judgment and in accordance with their scope of practice and
14 licensure, it is in the best interest of the patient and consistent with
15 the patient’s wishes.

16 (f) (1) It is the intent of the Legislature to prohibit CalCare, a
17 state agency, a local agency, or a public employee acting under
18 color of law from providing or disclosing to anyone, including the
19 federal government, any personally identifiable information
20 obtained, including a person’s religious beliefs, practices, or
21 affiliation, national origin, ethnicity, or immigration status, for law
22 enforcement or immigration purposes.

23 (2) This act would also prohibit law enforcement agencies from
24 using CalCare’s funds, facilities, property, equipment, or personnel
25 to investigate, enforce, or assist in the investigation or enforcement
26 of a criminal, civil, or administrative violation or warrant for a
27 violation of any requirement that individuals register with the
28 federal government or any federal agency based on religion,
29 national origin, ethnicity, immigration status, or other protected
30 category as recognized in the Unruh Civil Rights Act (Part 2
31 (commencing with Section 51) of Division 1 of the Civil Code).

32 (g) It is the further intent of the Legislature to address the high
33 cost of prescription drugs and ensure they are affordable for
34 patients.

35 SEC. 2. Title 23 (commencing with Section 100600) is added
36 to the Government Code, to read:

1 TITLE 23. THE CALIFORNIA GUARANTEED HEALTH
2 CARE FOR ALL ACT

3
4 CHAPTER 1. GENERAL PROVISIONS

5
6 100600. This title shall be known, and may be cited, as the
7 California Guaranteed Health Care for All Act.

8 100601. There is hereby established in state government the
9 California Guaranteed Health Care for All program, or CalCare,
10 to be governed by the CalCare Board pursuant to Chapter 2
11 (commencing with Section 100610).

12 100602. For the purposes of this title, the following definitions
13 apply:

14 (a) “Activities of daily living” means basic personal everyday
15 activities including eating, toileting, grooming, dressing, bathing,
16 and transferring.

17 (b) “Advisory commission” means the Advisory Commission
18 on Long-Term Services and Supports established pursuant to
19 Section 100614.

20 (c) “Affordable Care Act” or “PPACA” means the federal
21 Patient Protection and Affordable Care Act (Public Law 111-148),
22 as amended by the federal Health Care and Education
23 Reconciliation Act of 2010 (Public Law 111-152), and any
24 amendments to, or regulations or guidance issued under, those
25 acts.

26 (d) “Allied health practitioner” means a group of health
27 professionals who apply their expertise to prevent disease
28 transmission and diagnose, treat, and rehabilitate people of all ages
29 and in all specialties, together with a range of technical and support
30 staff, by delivering direct patient care, rehabilitation, treatment,
31 diagnostics, and health improvement interventions to restore and
32 maintain optimal physical, sensory, psychological, cognitive, and
33 social functions. Examples include audiologists, occupational
34 therapists, social workers, and radiographers.

35 (e) “Board” means the CalCare Board described in Section
36 100610.

37 (f) “CalCare” or “California Guaranteed Health Care for All”
38 means the California Guaranteed Health Care for All program
39 established in Section 100601.

1 (g) “Capital expenditures” means expenses for the purchase,
2 lease, construction, or renovation of capital facilities, health
3 information technology, artificial intelligence, and major
4 equipment, including costs associated with state grants, loans, lines
5 of credit, and lease-purchase arrangements.

6 (h) “Carrier” means either a private health insurer holding a
7 valid outstanding certificate of authority from the Insurance
8 Commissioner or a health care service plan, as defined under
9 subdivision (f) of Section 1345 of the Health and Safety Code,
10 licensed by the Department of Managed Health Care.

11 (i) “Committee” means the CalCare Public Advisory Committee
12 established pursuant to Section 100611.

13 (j) “County organized health system” means a health system
14 implemented pursuant to Part 4 (commencing with Section 101525)
15 of Division 101 of the Health and Safety Code, and Article 2.8
16 (commencing with Section 14087.5) of Chapter 7 of Part 3 of
17 Division 9 of the Welfare and Institutions Code.

18 (k) “Essential community provider” means a provider, as defined
19 in Section 156.235(c) of Title 45 of the Code of Federal
20 Regulations, as published February 27, 2015, in the Federal
21 Register (80 FR 10749), that serves predominantly low-income,
22 medically underserved individuals and that is one of the following:

23 (1) A community clinic, as defined in subparagraph (A) of
24 paragraph (1) of subdivision (a) of Section 1204 of the Health and
25 Safety Code.

26 (2) A free clinic, as defined in subparagraph (B) of paragraph
27 (1) of subdivision (a) of Section 1204 of the Health and Safety
28 Code.

29 (3) A federally qualified health center, as defined in Section
30 1395x(aa)(4) or Section 1396d(l)(2)(B) of Title 42 of the United
31 States Code.

32 (4) A rural health clinic, as defined in Section 1395x(aa)(2) or
33 1396d(l)(1) of Title 42 of the United States Code.

34 (5) An Indian Health Service Facility, as defined in subdivision
35 (v) of Section 2699.6500 of Title 10 of the California Code of
36 Regulations.

37 (l) “Federally matched public health program” means the state’s
38 Medi-Cal program under Title XIX of the federal Social Security
39 Act (42 U.S.C. Sec. 1396 et seq.) and the federal Children’s Health

1 Insurance Program under Title XXI of the federal Social Security
2 Act (42 U.S.C. Sec. 1397aa et seq.).

3 (m) “Fund” means the CalCare Trust Fund established pursuant
4 to Article 2 (commencing with Section 100665) of Chapter 7.

5 (n) “Global budget” means the payment negotiated between an
6 institutional provider and the board pursuant to Section 100641.

7 (o) “Group practice” means a professional corporation under
8 the Moscone-Knox Professional Corporation Act (Part 4
9 (commencing with Section 13400) of Division 3 of Title 1 of the
10 Corporations Code) that is a single corporation or partnership
11 composed of licensed doctors of medicine, doctors of osteopathy,
12 or other licensed health care professionals, and that provides health
13 care items and services primarily directly through physicians or
14 other health care professionals who are either employees or partners
15 of the organization.

16 (p) “Health care professional” means a health care professional
17 licensed pursuant to Division 2 (commencing with Section 500)
18 of the Business and Professions Code, or licensed pursuant to the
19 Osteopathic Act or the Chiropractic Act, who, in accordance with
20 the professional’s scope of practice, may provide health care items
21 and services under this title.

22 (q) “Health care item or service” means a health care item or
23 service that is included as a benefit under CalCare.

24 (r) “Health professional education expenditures” means
25 expenditures in hospitals and other health care facilities to cover
26 costs associated with teaching and related research activities.

27 (s) “Home- and community-based services” means an integrated
28 continuum of service options available locally for older individuals
29 and functionally impaired persons who seek to maximize self-care
30 and independent living in the home or a home-like environment,
31 which includes the home- and community-based services that are
32 available through Medi-Cal pursuant to the home-~~and-community~~
33 ~~based and community-based~~ waiver program under Section 1915
34 of the federal Social Security Act (42 U.S.C. Sec. 1396n) as of
35 January 1, 2019.

36 (t) “Implementation period” means the period under paragraph
37 (6) of subdivision (e) of Section 100612 during which CalCare is
38 subject to special eligibility and financing provisions until it is
39 fully implemented under that section.

- 1 (u) “Institutional provider” means an entity that provides health
 2 care items and services and is licensed pursuant to any of the
 3 following:
- 4 (1) A health facility, as defined in Chapter 2 (commencing with
 5 Section 1250) of Division 2 of the Health and Safety Code.
- 6 (2) A clinic licensed pursuant to Chapter 1 (commencing with
 7 Section 1200) of Division 2 of the Health and Safety Code.
- 8 (3) A long-term health care facility, as defined in Section 1418
 9 of the Health and Safety Code, or a program developed pursuant
 10 to paragraph (1) of subdivision (i) of Section 100612.
- 11 (4) A county medical facility licensed pursuant to Chapter 2.5
 12 (commencing with Section 1440) of Division 2 of the Health and
 13 Safety Code.
- 14 (5) A residential care facility for persons with chronic,
 15 life-threatening illness licensed pursuant to Chapter 3.01
 16 (commencing with Section 1568.01) of Division 2 of the Health
 17 and Safety Code.
- 18 (6) An Alzheimer’s ~~day care~~ *daycare* resource center licensed
 19 pursuant to Chapter 3.1 (commencing with Section 1568.15) of
 20 Division 2 of the Health and Safety Code.
- 21 (7) A residential care facility for the elderly licensed pursuant
 22 to Chapter 3.2 (commencing with Section 1569) of Division 2 of
 23 the Health and Safety Code.
- 24 (8) A hospice licensed pursuant to Chapter 8.5 (commencing
 25 with Section 1745) of Division 2 of the Health and Safety Code.
- 26 (9) A pediatric day health and respite care facility licensed
 27 pursuant to Chapter 8.6 (commencing with Section 1760) of
 28 Division 2 of the Health and Safety Code.
- 29 (10) A mental health care provider licensed pursuant to Division
 30 4 (commencing with Section 4000) of the Welfare and Institutions
 31 Code.
- 32 (11) A federally qualified health center, as defined in Section
 33 1395x(aa)(4) or 1396d(l)(2)(B) of Title 42 of the United States
 34 Code.
- 35 (v) “Instrumental activities of daily living” means activities
 36 related to living independently in the community, including meal
 37 planning and preparation, managing finances, shopping for food,
 38 clothing, and other essential items, performing essential household
 39 chores, communicating by phone or other media, and traveling
 40 around and participating in the community.

1 (w) “Local initiative” means a prepaid health plan that is
2 organized by, or designated by, a county government or county
3 governments, or organized by stakeholders, of a region designated
4 by the department to provide comprehensive health care to eligible
5 Medi-Cal beneficiaries, including the entities established pursuant
6 to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38,
7 and 14087.96 of the Welfare and Institutions Code.

8 (x) “Long-term services and supports” means long-term care,
9 treatment, maintenance, or services related to health conditions,
10 injury, or age, that are needed to support the activities of daily
11 living and the instrumental activities of daily living for a person
12 with a disability, including all long-term services and supports as
13 defined in Section 14186.1 of the Welfare and Institutions Code,
14 home- and community-based services, additional services and
15 supports identified by the board to support people with disabilities
16 to live, work, and participate in their communities, and those as
17 defined by the board.

18 (y) “Medicaid” or “medical assistance” means a program that
19 is one of the following:

20 (1) The state’s Medi-Cal program under Title XIX of the federal
21 Social Security Act (42 U.S.C. Sec. 1396 et seq.).

22 (2) The federal Children’s Health Insurance Program under
23 Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa
24 et seq.).

25 (z) “Medically necessary or appropriate” means the health care
26 items, services, or supplies needed or appropriate to prevent,
27 diagnose, or treat an illness, injury, condition, or disease, or its
28 symptoms, and that meet accepted standards of medicine as
29 determined by a patient’s treating physician or other individual
30 health care professional who is treating the patient, and, according
31 to that health care professional’s scope of practice and licensure,
32 is authorized to establish a medical diagnosis and has made an
33 assessment of the patient’s condition.

34 (aa) “Medicare” means Title XVIII of the federal Social Security
35 Act (42 U.S.C. Sec. 1395 et seq.) and the programs thereunder.

36 (ab) “Member” means an individual who is enrolled in CalCare.

37 (ac) “Out-of-state health care service” means a health care item
38 or service provided in person to a member while the member is
39 temporarily, for no more than 90 days, and physically located out
40 of the state under either of the following circumstances:

1 (1) It is medically necessary or appropriate that the health care
 2 item or service be provided while the member physically is out of
 3 the state.

4 (2) It is medically necessary or appropriate, and cannot be
 5 provided in the state, because the health care item or service can
 6 only be provided by a particular health care provider physically
 7 located out of the state.

8 (ad) “Participating provider” means an individual or entity that
 9 is a health care provider qualified under Section 100630 that has
 10 a participation agreement pursuant to Section 100631 in effect
 11 with the board to furnish health care items or services under
 12 CalCare.

13 (ae) “Prescription drugs” means prescription drugs as defined
 14 in subdivision (n) of Section 130501 of the Health and Safety
 15 Code.

16 (af) “Resident” means an individual whose primary place of
 17 abode is in this state, without regard to the individual’s immigration
 18 status, who meets the California residence requirements adopted
 19 by the board pursuant to subdivision (k) of Section 100610. The
 20 board shall be guided by the principles and requirements set forth
 21 in the Medi-Cal program under Article 7 (commencing with
 22 Section 50320) of Chapter 2 of Subdivision 1 of Division 3 of Title
 23 22 of the California Code of Regulations.

24 (ag) “Rural or medically underserved area” has the same
 25 meaning as a “health professional shortage area” in Section 254e
 26 of Title 42 of the United States Code.

27 100603. This title does not preempt a city, county, or city and
 28 county from adopting additional health care coverage for residents
 29 in that city, county, or city and county that provides more
 30 protections and benefits to California residents than this title.

31 100604. To the extent any law is inconsistent with this title or
 32 the legislative intent of the California Guaranteed Health Care for
 33 All Act, this title shall apply and prevail, except when explicitly
 34 provided otherwise by this title.

35

36 CHAPTER 2. GOVERNANCE

37

38 100610. (a) CalCare shall be governed by an executive board,
 39 known as the CalCare Board, consisting of nine voting members
 40 who are residents of California. The CalCare Board shall be an

1 independent public entity not affiliated with an agency or
2 department. Of the members of the board, five shall be appointed
3 by the Governor, two shall be appointed by the Senate Committee
4 on Rules, and two shall be appointed by the Speaker of the
5 Assembly. The Secretary of California Health and Human Services
6 or the secretary's designee shall serve as a nonvoting, ex officio
7 member of the board.

8 (b) (1) A member of the board, other than an ex officio member,
9 shall be appointed for a term of four years, except that the initial
10 appointment by the Senate Committee on Rules shall be for a term
11 of five years, and the initial appointment by the Speaker of the
12 Assembly shall be for a term of two years. These members may
13 be reappointed for succeeding four-year terms.

14 (2) Appointments by the Governor shall be subject to
15 confirmation by the Senate. A member of the board may continue
16 to serve until the appointment and qualification of the member's
17 successor. Vacancies shall be filled by appointment for the
18 unexpired term. The board shall elect a chairperson on an annual
19 basis.

20 (c) (1) Each person appointed to the board shall have
21 demonstrated and acknowledged expertise in health care policy
22 or delivery.

23 (2) Appointing authorities shall also consider the expertise of
24 the other members of the board and attempt to make appointments
25 so that the board's composition reflects a diversity of expertise in
26 the various aspects of health care and the diversity of various
27 regions within the state.

28 (3) Appointments to the board shall be made as follows:

29 (A) Two health care professionals who practice medicine.

30 (B) One registered nurse.

31 (C) One public health professional.

32 (D) One mental health professional.

33 (E) One member with an institutional provider background.

34 (F) One representative of a not-for-profit organization that
35 advocates for individuals who use health care in California

36 (G) One representative of a labor organization.

37 (H) One member of the committee established pursuant to
38 Section 100611, who shall serve on a rotating basis to be
39 determined by the committee.

1 (d) Each member of the board shall have the responsibility and
2 duty to meet the requirements of this title and all applicable state
3 and federal laws and regulations, to serve the public interest of the
4 individuals, employers, and taxpayers seeking health care coverage
5 through CalCare, and to ensure the operational well-being and
6 fiscal solvency of CalCare.

7 (e) In making appointments to the board, the appointing
8 authorities shall take into consideration the racial, ethnic, gender,
9 and geographical diversity of the state so that the board's
10 composition reflects the communities of California.

11 (f) (1) A member of the board or of the staff of the board shall
12 not be employed by, a consultant to, a member of the board of
13 directors of, affiliated with, or otherwise a representative of, a
14 health care professional, institutional provider, or group practice
15 while serving on the board or on the staff of the board, except
16 board members who are practicing health care professionals may
17 be employed by an institutional provider or group practice. A
18 member of the board or of the staff of the board shall not be a
19 board member or an employee of a trade association of health
20 professionals, institutional providers, or group practices while
21 serving on the board or on the staff of the board. A member of the
22 board or of the staff of the board may be a health care professional
23 if that member does not have an ownership interest in an
24 institutional provider or a professional health care practice.

25 (2) Notwithstanding Section 11009, a board member shall
26 receive compensation for service on the board. A board member
27 may receive a per diem and reimbursement for travel and other
28 necessary expenses, as provided in Section 103 of the Business
29 and Professions Code, while engaged in the performance of official
30 duties of the board.

31 (g) A member of the board shall not make, participate in making,
32 or in any way attempt to use the member's official position to
33 influence the making of a decision that the member knows, or has
34 reason to know, will have a reasonably foreseeable material
35 financial effect, distinguishable from its effect on the public
36 generally, on the member or a person in the member's immediate
37 family, or on either of the following:

38 (1) Any source of income, other than gifts and other than loans
39 by a commercial lending institution in the regular course of
40 business on terms available to the public without regard to official

1 status aggregating two hundred fifty dollars (\$250) or more in
2 value provided to, received by, or promised to the member within
3 12 months before the decision is made.

4 (2) Any business entity in which the member is a director,
5 officer, partner, trustee, employee, or holds any position of
6 management.

7 (h) There shall not be liability in a private capacity on the part
8 of the board or a member of the board, or an officer or employee
9 of the board, for or on account of an act performed or obligation
10 entered into in an official capacity, when done in good faith,
11 without intent to defraud, and in connection with the
12 administration, management, or conduct of this title or affairs
13 related to this title.

14 (i) The board shall hire an executive director to organize,
15 administer, and manage the operations of the board. The executive
16 director shall be exempt from civil service and shall serve at the
17 pleasure of the board.

18 (j) The board shall be subject to the Bagley-Keene Open Meeting
19 Act (Article 9 (commencing with Section 11120) of Chapter 1 of
20 Part 1 of Division 3 of Title 2), except that the board may hold
21 closed sessions when considering matters related to litigation,
22 personnel, contracting, and provider rates.

23 (k) The board may adopt rules and regulations as necessary to
24 implement and administer this title in accordance with the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2).

27 100611. (a) The board shall convene a CalCare Public
28 Advisory Committee to advise the board on all matters of policy
29 for CalCare. The committee shall consist of members who are
30 residents of California.

31 (b) Members of the committee shall be appointed by the board
32 for a term of two years. These members may be reappointed for
33 succeeding two-year terms.

34 (c) The members of the committee shall be as follows:

35 (1) Four health care professionals.

36 (2) One registered nurse.

37 (3) One representative of a licensed health facility.

38 (4) One representative of an essential community ~~provider~~
39 *provider*.

1 (5) One representative of a physician organization or medical
2 group.

3 (6) One behavioral health provider.

4 (7) One dentist or oral care specialist.

5 (8) One representative of private hospitals.

6 (9) One representative of public hospitals.

7 (10) One individual who is enrolled in and uses health care
8 items and services under CalCare.

9 (11) Two representatives of organizations that advocate for
10 individuals who use health care in California, including at least
11 one representative of an organization that advocates for the disabled
12 community.

13 (12) Two representatives of organized labor, including at least
14 one labor organization representing registered nurses.

15 (d) In convening the committee pursuant to this section, the
16 board shall make good faith efforts to ensure that their
17 appointments, as a whole, reflect, to the greatest extent feasible,
18 the social and geographic diversity of the state.

19 (e) Members of the committee shall serve without compensation,
20 but shall be reimbursed for actual and necessary expenses incurred
21 in the performance of their duties to the extent that reimbursement
22 for those expenses is not otherwise provided or payable by another
23 public agency or agencies, and shall receive one hundred fifty
24 dollars (\$150) for each full day of attending meetings of the
25 committee. For purposes of this section, “full day of attending a
26 meeting” means presence at, and participation in, not less than 75
27 percent of the total meeting time of the committee during any
28 particular 24-hour period.

29 (f) The committee shall meet at least once every quarter, and
30 shall solicit input on agendas and topics set by the board. All
31 meetings of the committee shall be open to the public, pursuant to
32 the Bagley-Keene Open Meeting Act (Article 9 (commencing with
33 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

34 (g) The committee shall elect a chairperson who shall serve for
35 two years and who may be reelected for an additional two years.

36 (h) Committee members, or their assistants, clerks, or deputies,
37 shall not use for personal benefit any information that is filed with,
38 or obtained by, the committee and that is not generally available
39 to the public.

1 100612. (a) The board shall have all powers and duties
2 necessary to establish and implement CalCare. The board shall
3 provide, under CalCare, comprehensive universal single-payer
4 health care coverage and a health care cost control system for the
5 benefit of all residents of the state.

6 (b) The board shall, to the maximum extent possible, organize,
7 administer, and market CalCare and services as a single-payer
8 program under the name “CalCare” or any other name as the board
9 determines, regardless of which law or source the definition of a
10 benefit is found, including, on a voluntary basis, retiree health
11 benefits. In implementing this title, the board shall avoid
12 jeopardizing federal financial participation in the programs that
13 are incorporated into CalCare and shall take care to promote public
14 understanding and awareness of available benefits and programs.

15 (c) The board shall consider any matter to effectuate the
16 provisions and purposes of this title. The board shall not have
17 executive, administrative, or appointive duties except as otherwise
18 provided by law.

19 (d) The board shall designate the executive director to employ
20 necessary staff and authorize reasonable, necessary expenditures
21 from the CalCare Trust Fund to pay program expenses and to
22 administer CalCare. The executive director shall hire or designate
23 another to hire staff, who shall not be exempt from civil service,
24 to implement fully the purposes and intent of CalCare. The
25 executive director, or the executive director’s designee, shall give
26 preference in hiring to all individuals displaced or unemployed as
27 a direct result of the implementation of CalCare, including as set
28 forth in Section 100615.

29 (e) The board shall do or delegate to the executive director all
30 of the following:

31 (1) Determine goals, standards, guidelines, and priorities for
32 CalCare.

33 (2) Annually assess projected revenues and expenditures and
34 ~~assure~~ *ensure* financial solvency of CalCare.

35 (3) Develop CalCare’s budget pursuant to Section 100667 to
36 ensure adequate funding to meet the health care needs of the
37 population, and review all budgets annually to ensure they address
38 disparities in service availability and health care outcomes and for
39 sufficiency of rates, fees, and prices to address disparities.

1 (4) Establish standards and criteria for the development and
2 submission of provider operating and capital expenditure requests
3 pursuant to Article 2 (commencing with Section 100640) of
4 Chapter 5.

5 (5) Establish standards and criteria for the allocation of funds
6 from the CalCare Trust Fund pursuant to Section 100667.

7 (6) Determine when individuals may begin enrolling in CalCare.
8 There shall be an implementation period that begins on the date
9 that individuals may begin enrolling in CalCare and ends on a date
10 determined by the board.

11 (7) Establish an enrollment system that ensures all eligible
12 California residents, including those who travel out of state, those
13 who have disabilities that limit their mobility, hearing, ~~vision~~
14 *vision*, or mental or cognitive capacity, those who cannot read,
15 and those who do not speak or write English, are aware of their
16 right to health care and are formally enrolled in CalCare.

17 (8) Negotiate payment rates, set payment methodologies, and
18 set prices involving aspects of CalCare and establish procedures
19 thereto, including procedures for negotiating fee-for-service
20 payment to certain participating providers pursuant to Chapter 8
21 (commencing with Section 100675).

22 (9) Oversee the establishment, as part of the administration of
23 CalCare, of the committee pursuant to Section 100611.

24 (10) Implement policies to ensure that all Californians receive
25 culturally, linguistically, and structurally competent care, pursuant
26 to Chapter 6 (commencing with Section 100650), ensure that all
27 disabled Californians receive care in accordance with the federal
28 Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.)
29 and Section 504 of the federal Rehabilitation Act of 1973 (29
30 U.S.C. Sec. 794), and develop mechanisms and incentives to
31 achieve these purposes and a means to monitor the effectiveness
32 of efforts to achieve these purposes.

33 (11) Establish standards for mandatory reporting by participating
34 providers and penalties for failure to report, including reporting
35 of data pursuant to Section 100616 and to Section 100631.

36 (12) Implement policies to ensure that all residents of this state
37 have access to medically appropriate, coordinated mental health
38 services.

39 (13) Ensure the establishment of policies that support the public
40 health.

1 (14) Meet regularly with the committee.

2 (15) Determine an appropriate level of, and provide support
3 during the transition for, training and job placement for persons
4 who are displaced from employment as a result of the initiation of
5 CalCare pursuant to Section 100615.

6 (16) In consultation with the Department of Managed Health
7 Care, oversee the establishment of a system for resolution of
8 disputes pursuant to Section 100627 and a system for independent
9 medical review pursuant to Section 100627.

10 (17) Establish and maintain an internet website that provides
11 information to the public about CalCare that includes information
12 that supports choice of providers and facilities and informs the
13 public about meetings of the board and the committee.

14 (18) Establish a process that is accessible to all Californians for
15 CalCare to receive the concerns, opinions, ideas, and
16 recommendations of the public regarding all aspects of CalCare.

17 (19) (A) Annually prepare a written report on the
18 implementation and performance of CalCare functions during the
19 preceding fiscal year, that includes, at a minimum:

20 (i) The manner in which funds were expended.

21 (ii) The progress toward and achievement of the requirements
22 of this title.

23 (iii) CalCare's fiscal condition.

24 (iv) Recommendations for statutory changes.

25 (v) Receipt of payments from the federal government and other
26 sources.

27 (vi) Whether current year goals and priorities have been met.

28 (vii) Future goals and priorities.

29 (B) The report shall be transmitted to the Legislature and the
30 Governor, on or before October 1 of each year and at other times
31 pursuant to this division, and shall be made available to the public
32 on the internet website of CalCare.

33 (C) A report made to the Legislature pursuant to this subdivision
34 shall be submitted pursuant to Section 9795 of the Government
35 Code.

36 (f) The board may do or delegate to the executive director all
37 of the following:

38 (1) Negotiate and enter into any necessary contracts, including
39 contracts with health care providers and health care professionals.

40 (2) Sue and be sued.

1 (3) Receive and accept gifts, grants, or donations of moneys
2 from any agency of the federal government, any agency of the
3 state, and any municipality, county, or other political subdivision
4 of the state.

5 (4) Receive and accept gifts, grants, or donations from
6 individuals, associations, private foundations, and corporations,
7 in compliance with the conflict-of-interest provisions to be adopted
8 by the board by regulation.

9 (5) Share information with relevant state departments, consistent
10 with the confidentiality provisions in this title, necessary for the
11 administration of CalCare.

12 (g) A carrier may not offer benefits or cover health care items
13 or services for which coverage is offered to individuals under
14 CalCare, but may, if otherwise authorized, offer benefits to cover
15 health care items or services that are not offered to individuals
16 under CalCare. However, this title does not prohibit a carrier from
17 offering either of the following:

18 (1) Benefits to or for individuals, including their families, who
19 are employed or self-employed in the state, but who are not
20 residents of the state.

21 (2) Benefits during the implementation period to individuals
22 who enrolled or may enroll as members of CalCare.

23 (h) After the end of the implementation period, a person shall
24 not be a board member unless the person is a member of CalCare,
25 except the ex officio member.

26 (i) No later than two years after the effective date of this section,
27 the board shall develop proposals for both of the following:

28 (1) Accommodating employer retiree health benefits for people
29 who have been members of the Public Employees' Retirement
30 System, but live as retirees out of the state.

31 (2) Accommodating employer retiree health benefits for people
32 who earned or accrued those benefits while residing in the state
33 before the implementation of CalCare and live as retirees out of
34 the state.

35 (j) The board shall develop a proposal for CalCare coverage of
36 health care items and services currently covered under the workers'
37 compensation system, including whether and how to continue
38 funding for those item and services under that system and how to
39 incorporate experience rating.

1 100613. The board may contract with not-for-profit
2 organizations to provide both of the following:

3 (a) Assistance to CalCare members with respect to selection of
4 a participating provider, enrolling, obtaining health care items and
5 services, disenrolling, and other matters relating to CalCare.

6 (b) Assistance to a health care provider providing, seeking, or
7 considering whether to provide health care items and services
8 under CalCare.

9 100614. (a) There is hereby established in state government
10 an Advisory Commission on Long-Term Services and Supports,
11 to advise the board on matters of policy related to long-term
12 services and supports for CalCare.

13 (b) The advisory commission shall consist of eleven members
14 who are residents of California. Of the members of the advisory
15 commission, five shall be appointed by the Governor, three shall
16 be appointed by the Senate Committee on Rules, and three shall
17 be appointed by the Speaker of the Assembly. The members of
18 the advisory commission shall include all of the following:

19 (1) At least two people with disabilities who use long-term
20 services and supports.

21 (2) At least two older adults who use long-term services and
22 supports.

23 (3) At least two providers of long-term services and supports,
24 including one family attendant or family caregiver.

25 (4) At least one representative of a disability rights organization.

26 (5) At least one representative or member of a labor organization
27 representing workers who provide long-term services and supports.

28 (6) At least one representative of a group representing seniors.

29 (7) At least one researcher or academic in long-term services
30 and supports.

31 (c) In making appointments pursuant to this section, the
32 Governor, the Senate Committee on Rules, and the Speaker of the
33 Assembly shall make good faith efforts to ensure that their
34 appointments, as a whole, reflect, to the greatest extent feasible,
35 the diversity of the population of people who use long-term services
36 and supports, including their race, ethnicity, national origin,
37 primary language use, age, disability, sex, including gender identity
38 and sexual orientation, geographic location, and socioeconomic
39 status.

1 (d) (1) A member of the ~~board~~ *commission* may continue to
2 serve until the appointment and qualification of that member's
3 successor. Vacancies shall be filled by appointment for the
4 unexpired term.

5 (2) Members of the advisory commission shall be appointed for
6 a term of four years, except that the initial appointment by the
7 Senate Committee on Rules shall be for a term of five years, and
8 the initial appointment by the Speaker of the Assembly shall be
9 for a term of two years. These members may be reappointed for
10 succeeding four-year terms.

11 (3) Vacancies that occur shall be filled within 30 days after the
12 occurrence of the vacancy, and shall be filled in the same manner
13 in which the vacating member was initially selected or appointed.
14 The Secretary of California Health and Human Services shall notify
15 the appropriate appointing authority of any expected vacancies on
16 the long-term services and supports advisory commission.

17 (e) Members of the advisory commission shall serve without
18 compensation, but shall be reimbursed for actual and necessary
19 expenses incurred in the performance of their duties to the extent
20 that reimbursement for those expenses is not otherwise provided
21 or payable by another public agency or agencies. Members shall
22 also receive one hundred fifty dollars (\$150) for each full day of
23 attending meetings of the advisory commission. For purposes of
24 this section, "full day of attending a meeting" means presence at,
25 and participation in, not less than 75 percent of the total meeting
26 time of the advisory commission during any particular 24-hour
27 period.

28 (f) The advisory commission shall meet at least six times per
29 year in a place convenient to the public. All meetings of the
30 advisory commission shall be open to the public, pursuant to the
31 Bagley-Keene Open Meeting Act (Article 9 (commencing with
32 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

33 (g) The advisory commission shall elect a chairperson who shall
34 serve for two years and who may be reelected for an additional
35 two years.

36 (h) It is unlawful for the advisory commission members or any
37 of their assistants, clerks, or deputies to use for personal benefit
38 any information that is filed with, or obtained by, the advisory
39 commission and that is not generally available to the public.

1 100615. (a) The board shall provide funds from the CalCare
2 Trust Fund or funds otherwise appropriated for this purpose to the
3 Secretary of Labor and Workforce Development for program
4 assistance to individuals employed or previously employed in the
5 fields of health insurance, health care service plans, or other
6 third-party payments for health care, individuals providing services
7 to health care providers to deal with third-party payers for health
8 care, individuals who may be affected by and who may experience
9 economic dislocation as a result of the implementation of this title,
10 and individuals whose jobs may be or have been ended as a result
11 of the implementation of CalCare, consistent with otherwise
12 applicable law.

13 (b) Assistance described in subdivision (a) shall include job
14 training and retraining, job placement, preferential hiring, wage
15 replacement, retirement benefits, and education benefits.

16 100616. (a) The board shall utilize the data collected pursuant
17 to Chapter 1 (commencing with Section 128675) of Part 5 of
18 Division 107 of the Health and Safety Code to assess patient
19 outcomes and to review utilization of health care items and services
20 paid for by CalCare.

21 (b) As applicable to the type of provider, the board shall require
22 and enforce the collection and availability of all of the following
23 data to promote transparency, assess quality of care, compare
24 patient outcomes, and review utilization of health care items and
25 services paid for by CalCare, which shall be reported to the board
26 and, as applicable, the ~~Office of Statewide Health Planning and~~
27 ~~Development~~ *Department of Health Care Access and Information*
28 or the Medical Board of California:

29 (1) Inpatient discharge data, including severity of illness and
30 risk of mortality, with respect to each discharge.

31 (2) Emergency department, ambulatory surgical center, and
32 other outpatient department data, including cost data, charge data,
33 length of stay, and patients' unit of observation with respect to
34 each individual receiving health care items and services.

35 (3) For hospitals and other providers receiving global budgets,
36 annual financial data, including all of the following:

37 (A) Community benefit activities, including charity care, to
38 which Section 501(r) of Title 26 of the United States Code applies,
39 provided by the provider in dollar value at cost.

- 1 (B) Number of employees by employee classification or job
- 2 title and by patient care unit or department.
- 3 (C) Number of hours worked by the employees in each patient
- 4 care unit or department.
- 5 (D) Employee wage information by job title and patient care
- 6 unit or department.
- 7 (E) Number of registered nurses per staffed bed by patient care
- 8 unit or department.
- 9 (F) A description of all information technology, including health
- 10 information technology and artificial intelligence, used by the
- 11 provider and the dollar value of that information technology.
- 12 (G) Annual spending on information technology, including
- 13 health information technology, artificial intelligence, purchases,
- 14 upgrades, and maintenance.
- 15 (4) Risk-adjusted and raw outcome data, including:
- 16 (A) Risk-adjusted outcome reports for medical, surgical, and
- 17 obstetric procedures selected by the ~~Office of Statewide Health~~
- 18 ~~Planning and Development~~ *Department of Health Care Access*
- 19 *and Information* pursuant to Sections 128745 to 128750, inclusive,
- 20 of the Health and Safety Code.
- 21 (B) Any other risk-adjusted outcome reports that the board may
- 22 require for medical, surgical, and obstetric procedures and
- 23 conditions as it deems appropriate.
- 24 (5) A disclosure made by a provider as set forth in Article 6
- 25 (commencing with Section 650) of Chapter 1 of Division 2 of the
- 26 Business and Professions Code.
- 27 (c) (1) The Medical Board of California shall collect data for
- 28 the outpatient surgery settings that the ~~medical board~~ *Medical*
- 29 *Board of California* regulates that meets the Ambulatory Surgery
- 30 Data Record requirements of Section 128737 of the Health and
- 31 Safety Code, and shall submit that data to the CalCare board.
- 32 (2) The CalCare board shall make that data available as required
- 33 pursuant to subdivision (d).
- 34 (d) The board shall make all disclosed data collected under this
- 35 section publicly available and searchable through an internet
- 36 website and through the ~~Office of Statewide Health Planning and~~
- 37 ~~Development~~ *Department of Health Care Access and Information*
- 38 public data sets.
- 39 (e) Consistent with state and federal privacy laws, the board
- 40 shall make available data collected through CalCare to the ~~Office~~

1 of ~~Statewide Health Planning and Development~~ *Department of*
2 *Health Care Access and Information* and the California Health
3 and Human Services Agency, consistent with this title and
4 otherwise applicable law, to promote and protect public,
5 environmental, and occupational health.

6 (f) Before full implementation of CalCare, and, for providers
7 seeking to receive global budgets or salaried payments under
8 Article 2 (commencing with Section 100640) of Chapter 5, as
9 applicable, before the negotiation of initial payments, the board
10 shall provide for the collection and availability of the following
11 data:

12 (1) The number of patients served.

13 (2) The dollar value of the care provided, at cost, for all of the
14 following categories of ~~Office of Statewide Health Planning and~~
15 ~~Development~~ *Department of Health Care Access and Information*
16 data items:

17 (A) Patients receiving charity care.

18 (B) Contractual adjustments of county and indigent programs,
19 including traditional and managed care.

20 (C) Bad debts or any other unpaid charges for patient care that
21 the provider sought, but was unable to collect.

22 (g) The board shall regularly analyze information reported under
23 this section and shall establish rules and regulations to allow
24 researchers, scholars, participating providers, and others to access
25 and analyze data for purposes consistent with this title, without
26 compromising patient privacy.

27 (h) (1) The board shall establish regulations for the collection
28 and reporting of data to promote transparency, assess patient
29 outcomes, and review utilization of services provided by physicians
30 and other health care professionals, as applicable, and paid for by
31 CalCare.

32 (2) In implementing this section, the board shall utilize data that
33 is already being collected pursuant to other state or federal laws
34 and regulations whenever possible.

35 (3) Data reporting required by participating providers under this
36 section shall supplement the data collected by the ~~Office of~~
37 ~~Statewide Health Planning and Development~~ *Department of Health*
38 *Care Access and Information* and shall not modify or alter other
39 reporting requirements to governmental agencies.

1 (i) The board shall not utilize quality or other review measures
 2 established under this section for the purposes of establishing
 3 payment methods to providers.

4 (j) The board may coordinate and cooperate with the ~~Office of~~
 5 ~~Statewide Health Planning and Development~~ *Department of Health*
 6 *Care Access and Information* or other health planning agencies of
 7 the state to implement the requirements of this section.

8 100617. (a) The board shall establish and use a process to
 9 enter into participation agreements with health care providers and
 10 other contracts with contractors. A contract entered into pursuant
 11 to this title shall be exempt from Part 2 (commencing with Section
 12 10100) of Division 2 of the Public Contract Code, and shall be
 13 exempt from the review or approval of the Department of General
 14 Services. The board shall adopt a CalCare Contracting Manual
 15 incorporating procurement and contracting policies and procedures
 16 that shall be followed by CalCare. The policies and procedures in
 17 the manual shall be substantially similar to the provisions contained
 18 in the State Contracting Manual.

19 (b) The adoption, amendment, or repeal of a regulation by the
 20 board to implement this section, including the adoption of a manual
 21 pursuant to subdivision (a) and any procurement process conducted
 22 by CalCare in accordance with the manual, is exempt from the
 23 rulemaking provisions of the Administrative Procedure Act
 24 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
 25 Division 3 of Title 2 of the Government Code).

26 100618. (a) Notwithstanding any other law, CalCare, a state
 27 or local agency, or a public employee acting under color of law
 28 shall not provide or disclose to anyone, including the federal
 29 government, any personally identifiable information obtained,
 30 including a person’s religious beliefs, practices, or affiliation,
 31 national origin, ethnicity, or immigration status, for law
 32 enforcement or immigration purposes.

33 (b) Notwithstanding any other law, law enforcement agencies
 34 shall not use CalCare moneys, facilities, property, equipment, or
 35 personnel to investigate, enforce, or assist in the investigation or
 36 enforcement of a criminal, civil, or administrative violation or
 37 warrant for a violation of a requirement that individuals register
 38 with the federal government or a federal agency based on religion,
 39 national origin, ethnicity, immigration status, or other protected

1 category as recognized in the Unruh Civil Rights Act (Section 51
2 of the Civil Code).

3 100619. (a) *On or before July 1, 2024, the board shall conduct*
4 *and deliver a fiscal analysis to determine both of the following:*

5 (1) *Whether or not CalCare may be implemented.*

6 (2) *Whether revenue is more likely than not to be sufficient to*
7 *pay for program costs within eight years of CalCare's*
8 *implementation.*

9 (b) *The board shall contract with one or more independent*
10 *entities with the appropriate expertise to conduct the fiscal*
11 *analysis.*

12 (c) *The board shall deliver, and upon request present, the fiscal*
13 *analysis to the Chair of the Senate Committee on Health, the Chair*
14 *of the Assembly Committee on Health, the Chair of the Senate*
15 *Committee on Appropriations, and the Chair of the Assembly*
16 *Committee on Appropriations.*

17 (d) *After the board has determined whether or not CalCare may*
18 *be implemented and if program revenue is more likely than not to*
19 *be sufficient to pay for program costs within eight years of*
20 *CalCare's implementation, CalCare shall not be further*
21 *implemented until the Senate Committee on Health, Assembly*
22 *Committee on Health, Senate Committee on Appropriations, and*
23 *Assembly Committee on Appropriations consider, and the*
24 *Legislature approves, by statute, the implementation of CalCare.*

25

26 CHAPTER 3. ELIGIBILITY AND ENROLLMENT

27

28 100620. (a) Every resident of the state shall be eligible and
29 entitled to enroll as a member of CalCare.

30 (b) (1) A member shall not be required to pay a fee, payment,
31 or other charge for enrolling in or being a member of CalCare.

32 (2) A member shall not be required to pay a premium,
33 copayment, coinsurance, deductible, or any other form of cost
34 sharing for all covered benefits under CalCare.

35 (c) A college, university, or other institution of higher education
36 in the state may purchase coverage under CalCare for a student,
37 or a student's dependent, who is not a resident of the state.

38 (d) An individual entitled to benefits through CalCare may
39 obtain health care items and services from any institution, agency,
40 or individual participating provider.

1 (e) The board shall establish a process for automatic CalCare
2 enrollment at the time of birth in California.

3 100621. (a) All residents of this state, no matter what their
4 sex, race, color, religion, ancestry, national origin, disability, age,
5 previous or existing medical condition, genetic information, marital
6 status, familial status, military or veteran status, sexual orientation,
7 gender identity or expression, pregnancy, pregnancy-related
8 medical condition, including termination of pregnancy, citizenship,
9 primary language, or immigration status, are entitled to full and
10 equal accommodations, advantages, facilities, privileges, or
11 services in all health care providers participating in CalCare.

12 (b) Subdivision (a) prohibits a participating provider, or an entity
13 conducting, administering, or funding a health program or activity
14 pursuant to this title, from discriminating based upon the categories
15 described in subdivision (a) in the provision, administration, or
16 implementation of health care items and services through CalCare.

17 (c) Discrimination prohibited under this section includes the
18 following:

19 (1) Exclusion of a person from participation in or denial of the
20 benefits of CalCare, except as expressly authorized by this title
21 for the purposes of enforcing eligibility standards in Section
22 100620.

23 (2) Reduction of a person’s benefits.

24 (3) Any other discrimination by any participating provider or
25 any entity conducting, administering, or funding a health program
26 or activity pursuant to this title.

27 (d) Section 52 of the Civil Code shall apply to discrimination
28 under this section.

29 (e) Except as otherwise provided in this section, a participating
30 provider or entity is in violation of subdivision (b) if the
31 complaining party demonstrates that any of the categories listed
32 in subdivision (a) was a motivating factor for any health care
33 practice, even if other factors also motivated the practice.

34

35 CHAPTER 4. BENEFITS

36

37 100625. (a) Individuals enrolled for benefits under CalCare
38 are entitled to have payment made by CalCare to a participating
39 provider for the health care items and services in subdivision (c),
40 if medically necessary or appropriate for the maintenance of health

1 or for the prevention, diagnosis, treatment, or rehabilitation of a
2 health condition.

3 (b) The determination of medical necessity or appropriateness
4 shall be made by the member's treating physician or by a health
5 care professional who is treating that individual and is authorized
6 to make that determination in accordance with the scope of practice,
7 licensing, the program standards established in Chapter 6
8 (commencing with Section ~~100650~~ 100650), and by the board,
9 and other laws of the state.

10 (c) Covered health care benefits for members include all of the
11 following categories of health care items and services:

12 (1) Inpatient and outpatient medical and health facility services,
13 including hospital services and 24-hour-a-day emergency services.

14 (2) Inpatient and outpatient health care professional services
15 and other ambulatory patient services.

16 (3) Primary and preventive services, including chronic disease
17 management.

18 (4) Prescription drugs and biological products.

19 (5) Medical devices, equipment, appliances, and assistive
20 technology.

21 (6) Mental health and substance abuse treatment services,
22 including inpatient and outpatient care.

23 (7) Diagnostic imaging, laboratory services, and other diagnostic
24 and evaluative services.

25 (8) Comprehensive reproductive, maternity, and newborn care.

26 (9) Pediatrics.

27 (10) Oral health, audiology, and vision services.

28 (11) Rehabilitative and habilitative services and devices,
29 including inpatient and outpatient care.

30 (12) Emergency services and transportation.

31 (13) Early and periodic screening, diagnostic, and treatment
32 services as defined in Section 1396d(r) of Title 42 of the United
33 States Code.

34 (14) Necessary transportation for health care items and services
35 for persons with disabilities or who may qualify as low income.

36 (15) Long-term services and supports described in Section
37 100626, including long-term services and supports covered under
38 Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3
39 of Division 9 of the Welfare and Institutions Code) or the federal

1 Children’s Health Insurance Program (Title XXI of the federal
2 Social Security Act (42 U.S.C. Sec. 1397aa et seq.))

3 (16) Any additional health care items and services the board
4 authorizes to be added to CalCare benefits.

5 (d) The categories of covered health care items and services
6 under subdivision (c) include all the following:

7 (1) Prosthetics, eyeglasses, and hearing aids and the repair,
8 technical support, and customization needed for their use by an
9 individual.

10 (2) Child and adult immunizations.

11 (3) Hospice care.

12 (4) Care in a skilled nursing facility.

13 (5) Home health care, including health care provided in an
14 assisted living facility.

15 (6) Prenatal and postnatal care.

16 (7) Podiatric care.

17 (8) Blood and blood products.

18 (9) Dialysis.

19 (10) Community-based adult services as defined under Chapter
20 7 (commencing with Section 14000) of Part 3 of Division 9 of the
21 Welfare and Institutions Code as of January 1, 2021.

22 (11) Dietary and nutritional therapies determined appropriate
23 by the board.

24 (12) Therapies that are shown by the National Center for
25 Complementary and Integrative Health in the National Institutes
26 of Health to be safe and effective, including chiropractic care and
27 acupuncture.

28 (13) Health care items and services previously covered by
29 county integrated health and human services programs pursuant
30 to Chapter 12.96 (commencing with Section 18990) and Chapter
31 12.991 (commencing with Section 18991) of Part 6 of Division 9
32 of the Welfare and Institutions Code.

33 (14) Health care items and services previously covered by a
34 regional center for persons with developmental disabilities pursuant
35 to Chapter 5 (commencing with Section 4620) of Division 4.5 of
36 the Welfare and Institutions Code.

37 (15) Language interpretation and translation for health care
38 items and services, including sign language and braille or other
39 services needed for individuals with communication barriers.

1 (e) Covered health care items and services under CalCare
2 include all health care items and services required to be covered
3 under the following provisions, without regard to whether the
4 member would be eligible for or covered by the source referred
5 to:

6 (1) The federal Children’s Health Insurance Program (Title XXI
7 of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.)).

8 (2) Medi-Cal (Chapter 7 (commencing with Section 14000) of
9 Part 3 of Division 9 of the Welfare and Institutions Code).

10 (3) The federal Medicare program pursuant to Title XVIII of
11 the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

12 (4) Health care service plans pursuant to the Knox-Keene Health
13 Care Service Plan Act of 1975 (Chapter 2.2 (commencing with
14 Section 1340) of Division 2 of the Health and Safety Code).

15 (5) Health insurers, as defined in Section 106 of the Insurance
16 Code, pursuant to Part 2 (commencing with Section 10110) of
17 Division 2 of the Insurance Code.

18 (6) All essential health benefits mandated by the federal Patient
19 Protection and Affordable Care Act as of January 1, 2017.

20 (f) Health care items and services covered under CalCare shall
21 not be subject to prior authorization or a limitation applied through
22 the use of step therapy protocols.

23 100626. (a) Subject to the other provisions of this title,
24 individuals enrolled for benefits under CalCare are entitled to have
25 payment made by CalCare to an eligible provider for long-term
26 services and supports, in accordance with the standards established
27 in this title, for care, services, diagnosis, treatment, rehabilitation,
28 or maintenance of health related to a medically determinable
29 condition, whether physical or mental, of health, injury, or age,
30 that either:

31 (1) Causes a functional limitation in performing one or more
32 activities of daily living or in instrumental activities of daily living.

33 (2) Is a disability, as defined in Section 12102(1)(A) of Title
34 42 of the United States Code, that substantially limits one or more
35 of the member’s major life activities.

36 (b) The board shall adopt regulations that provide for the
37 following:

38 (1) The determination of individual eligibility for long-term
39 services and supports under this section.

1 (2) The assessment of the long-term services and supports
2 needed for an eligible individual.

3 (3) The automatic entitlement of an individual who receives or
4 is approved to receive disability benefits from the federal Social
5 Security Administration under the federal Social Security Disability
6 Insurance program established in Title II or Title XVI of the federal
7 Social Security Act to the long-term services and supports under
8 this section.

9 (c) Long-term services and supports provided pursuant to this
10 section shall do all of the following:

11 (1) Include long-term nursing services for a member, whether
12 provided in an institution or in a home- and community-based
13 setting.

14 (2) Provide coverage for a broad spectrum of long-term services
15 and supports, including home- and community-based services,
16 other care provided through noninstitutional settings, and respite
17 care.

18 (3) Provide coverage that meets the physical, mental, and social
19 needs of a member while allowing the member the member's
20 maximum possible autonomy and the member's maximum possible
21 civic, social, and economic participation.

22 (4) Prioritize delivery of long-term services and supports through
23 home- and community-based services over institutionalization.

24 (5) Unless a member chooses otherwise, ensure that the member
25 receives home- and community-based long-term services and
26 supports regardless of the recipient's type or level of disability,
27 service need, or age.

28 (6) Have the goal of enabling persons with disabilities to receive
29 services in the least restrictive and most integrated setting
30 appropriate to the member's needs.

31 (7) Be provided in a manner that allows persons with disabilities
32 to maintain their independence, self-determination, and dignity.

33 (8) Provide long-term services and supports that are of equal
34 quality and equitably accessible across geographic regions.

35 (9) Ensure that long-term services and supports provide
36 recipients the option of self-direction of service, including under
37 the Self-Directed Services Program described in Division 4.5
38 (commencing with Section 4500) of the Welfare and Institutions
39 Code, from either the recipient or care coordinators of the
40 recipient's choosing.

1 (d) In developing regulations to implement this section, the
2 board shall consult the advisory commission established pursuant
3 to Section 100614.

4 100627. (a) (1) The board shall, on a regular basis and at least
5 annually, evaluate whether the benefits under CalCare should be
6 expanded or adjusted to promote the health of members and
7 California residents, account for changes in medical practice or
8 new information from medical research, or respond to other
9 relevant developments in health science.

10 (2) In implementing this section, the board shall not remove or
11 eliminate covered health care items and services under CalCare
12 that are listed in this chapter.

13 (b) The board shall establish a process by which health care
14 professionals, other clinicians, and members may petition the board
15 to add or expand benefits to CalCare.

16 (c) The board shall establish a process by which individuals
17 may bring a disputed health care item or service or a coverage
18 decision for review to the Independent Medical Review System
19 established in the Department of Managed Health Care pursuant
20 to Article 5.55 (commencing with Section 1374.30) of Chapter
21 2.2 of Division 2 of the Health and Safety Code.

22 (d) For the purposes of this chapter:

23 (1) “Coverage decision” means the approval or denial of health
24 care items or services by a participating provider or a health care
25 professional who is employed by or otherwise receives
26 compensation or payment for items and services furnished under
27 CalCare from a participating provider, substantially based on a
28 finding that the provision of a particular service is included or
29 excluded as a covered item or service under CalCare. A “coverage
30 decision” does not encompass a decision regarding a disputed
31 health care item or service.

32 (2) “Disputed health care item or service” means a health care
33 item or service eligible for coverage and payment under CalCare
34 that has been denied, modified, or delayed by a decision of a
35 participating provider or a health care professional who is
36 employed by or otherwise receives compensation or payment for
37 health care items and services furnished under CalCare from a
38 participating provider, in whole or in part, due to a finding that the
39 service is not medically necessary or appropriate. A decision
40 regarding a disputed health care item or service relates to the

1 practice of medicine, including early discharge from an institutional
2 provider, and is not a coverage decision.

3

4

CHAPTER 5. DELIVERY OF CARE

5

6

Article 1. Health Care Providers

7

8

100630. (a) (1) A health care provider or entity is qualified
9 to participate as a provider in CalCare if the health care provider
10 furnishes health care items and services while the provider, or, if
11 the provider is an entity, the individual health care professional of
12 the entity furnishing the health care items and services, is
13 physically present within the State of California, and if the provider
14 meets all of the following:

15

(A) The provider or entity is a health care professional, group
16 practice, or institutional health care provider licensed to practice
17 in California.

18

(B) The provider or entity agrees to accept CalCare rates as
19 payment in full for all covered health care items and services.

20

(C) The provider or entity has filed with the board a participation
21 agreement described in Section 100631.

22

(D) The provider or entity is otherwise in good standing.

23

(2) The board shall establish and maintain procedures and
24 standards for recognizing health care providers located out of the
25 state for purposes of providing coverage under CalCare for
26 members who require out-of-state health care services while the
27 member is temporarily located out of the state.

28

(b) A provider or entity shall not be qualified to furnish health
29 care items and services under CalCare if the provider or entity
30 does not provide health care items or services directly to
31 individuals, including the following:

32

(1) Entities or providers that contract with other entities or
33 providers to provide health care items and services shall not be
34 considered a qualified provider for those contracted items and
35 services.

36

(2) Entities that are approved to coordinate care plans under the
37 Medicare Advantage program established in Part C of Title XVIII
38 of the federal Social Security Act (42 U.S.C. Sec. 1851 et seq.) as
39 of January 1, 2020, but do not directly provide health care items
40 and services.

1 (c) A health care provider qualified to participate under this
2 section may provide covered health care items or services under
3 CalCare, as long as the health care provider is legally authorized
4 to provide the health care item or service for the individual and
5 under the circumstances involved.

6 (d) The board shall establish and maintain procedures for
7 members and individuals eligible to enroll in CalCare to enroll
8 onsite at a participating provider.

9 (e) The board shall establish and maintain procedures and
10 standards for members to select a primary care physician, which
11 may be an internist, a pediatrician, a physician who practices family
12 medicine, a gynecologist, a physician who practices geriatric
13 medicine, or, at the option of a member who has a chronic
14 condition that requires specialty care, a specialist health care
15 professional who regularly and continually provides treatment to
16 the member for that condition.

17 (f) A referral from a primary care provider is not required for
18 a member to see a participating provider.

19 (g) A member may choose to receive health care items and
20 services under CalCare from a participating provider, subject to
21 the willingness or availability of the provider, and consistent with
22 the provisions of this title relating to discrimination, and the
23 appropriate clinically relevant circumstances and standards.

24 100631. (a) A health care provider shall enter into a
25 participation agreement with the board to qualify as a participating
26 provider under CalCare.

27 (b) A participation agreement between the board and a health
28 care provider shall include provisions for at least the following,
29 as applicable to each provider:

30 (1) Health care items and services to members shall be furnished
31 by the provider without discrimination, as required by Section
32 100621. This paragraph does not require the provision of a type
33 or class of health care items or services that are outside the scope
34 of the provider's normal practice.

35 (2) A charge shall not be made to a member for a covered health
36 care item or service, other than for payment authorized by this
37 title. Except as described in Section 100634, a contract shall not
38 be entered into with a patient for a covered health care item or
39 service.

1 (3) The provider shall follow the policies and procedures in the
2 CalCare Contracting Manual established pursuant to Section
3 100617.

4 (4) The provider shall furnish information reasonably required
5 by the board and shall meet the reporting requirements of Sections
6 100616 and 100651 for at least the following:

7 (A) Quality review by designated entities.

8 (B) Making payments, including the examination of records as
9 necessary for the verification of information on which those
10 payments are based.

11 (C) Statistical or other studies required for the implementation
12 of this title.

13 (D) Other purposes specified by the board.

14 (5) If the provider is not an individual, the provider shall not
15 employ or use an individual or other provider that has had a
16 participation agreement terminated for cause to provide covered
17 health care items and services.

18 (6) If the provider is paid on a fee-for-service basis for covered
19 health care items and services, the provider shall submit bills and
20 required supporting documentation relating to the provision of
21 covered health care items or services within 30 days after the date
22 of providing those items or services.

23 (7) The provider shall submit information and any other required
24 supporting documentation reasonably required by the board on a
25 quarterly basis that relates to the provision of covered health care
26 items and services and describes health care items and services
27 furnished with respect to specific individuals.

28 (8) (A) If the provider receives payment based on provider data
29 on diagnosis-related coding, procedure coding, or other coding
30 system or data, the provider shall disclose the following to the
31 board:

32 (i) Any case mix indexes, diagnosis coding software, procedure
33 coding software, or other coding system utilized by the provider
34 for the purposes of meeting payment, global budget, or other
35 disclosure requirements under this title.

36 (ii) Any case mix indexes, diagnosis coding guidelines,
37 procedure coding guidelines, or coding tip sheets used by the
38 provider for the purposes of meeting payment or disclosure
39 requirements under this title.

1 (B) If the provider receives payment based on provider data on
2 diagnosis-related coding, procedure coding, or other coding system
3 or data, the provider shall not do the following:

4 (i) Use proprietary case mix indexes, diagnosis coding software,
5 procedure coding software, or other coding system for the purposes
6 of meeting payment, global budget, or other disclosure
7 requirements under this title.

8 (ii) Require another health care professional to apply case mix
9 indexes, diagnosis coding software, procedure coding software,
10 or other coding system in a manner that limits the clinical
11 diagnosis, treatment process, or a treating health care professional's
12 judgment in determining a diagnosis or treatment process, including
13 the use of leading queries or prohibitions on using certain codes.

14 (iii) Provide financial incentives or disincentives to physicians,
15 registered nurses, or other health care professionals for particular
16 coding query results or code selections.

17 (iv) Use case mix indexes, diagnosis coding software, procedure
18 coding software, or other coding system that make suggestions for
19 higher severity diagnoses or higher cost procedure coding.

20 (9) The provider shall comply with the duty of patient advocacy
21 and reporting requirements described in Section 100651.

22 (10) If the provider is not an individual, the provider shall ensure
23 that a board member, executive, or administrator of the provider
24 shall not receive compensation from, own stock or have other
25 financial investments in, or receive services as a board member of
26 an entity that contracts with or provides health care items or
27 services, including pharmaceutical products and medical devices
28 or equipment, to the provider.

29 (11) If the provider is a not-for-profit hospital subject to Article
30 2 (commencing with Section 127340) of Chapter 2 of Part 2 of
31 Division 107 of the Health and Safety Code, the hospital shall
32 submit to the board the community benefits plan developed
33 pursuant to Article 2 (commencing with Section 127340) of the
34 Health and Safety Code.

35 (12) Health care items and services to members shall be
36 furnished by a health care professional while the professional is
37 physically present within the State of California.

38 (13) The provider shall not enter into risk-bearing, risk-sharing,
39 or risk-shifting agreements with other health care providers or
40 entities other than CalCare.

1 (c) This section does not limit the formation of group practices.
2 100632. (a) A participation agreement may be terminated with
3 appropriate notice by the board for failure to meet the requirements
4 of this title or may be terminated by a provider.

5 (b) A participating provider shall be provided notice and a
6 reasonable opportunity to correct deficiencies before the board
7 terminates an agreement, unless a more immediate termination is
8 required for public safety or similar reasons.

9 (c) The procedures and penalties under the Medi-Cal program
10 for fraud or abuse pursuant to Sections 14107, 14107.11, 14107.12,
11 14107.13, 14107.2, 14107.3, 14107.4, 14107.5, and 14108 of the
12 Welfare and Institutions Code shall apply to an applicant or
13 provider under CalCare.

14 (d) For purposes of this section:

15 (1) "Applicant" means an individual, including an ordering,
16 referring, or prescribing individual, partnership, group, association,
17 corporation, institution, or entity, and the officers, directors,
18 owners, managing employees, or agents thereof, that apply to the
19 board to participate as a provider in CalCare.

20 (2) "Provider" means an individual, partnership, group,
21 association, corporation, institution, or entity, and the officers,
22 directors, owners, managing employees, or agents of a partnership,
23 group association, corporation, institution, or entity, that provides
24 services, goods, supplies, or merchandise, directly or indirectly,
25 including all ordering, referring, and prescribing, to CalCare
26 program members.

27 100633. (a) A person shall not discharge or otherwise
28 discriminate against an employee on account of the employee or
29 a person acting pursuant to a request of the employee for any of
30 the following:

31 (1) Notifying the board, executive director, or employee's
32 employer of an alleged violation of this title, including
33 communications related to carrying out the employee's job duties.

34 (2) Refusing to engage in a practice made unlawful by this title,
35 if the employee has identified the alleged illegality to the employer.

36 (3) Providing, causing to be provided, or being about to provide
37 or cause to be provided to the provider, the federal government,
38 or the Attorney General information relating to a violation of, or
39 an act or omission the provider or representative reasonably
40 believes to be a violation of, this title.

1 (4) Testifying before or otherwise providing information relevant
2 for a state or federal proceeding regarding this title or a proposed
3 amendment to this title.

4 (5) Commencing, causing to be commenced, or being about to
5 commence or cause to be commenced a proceeding under this title.

6 (6) Testifying or being about to testify in a proceeding.

7 (7) Assisting or participating, or being about to assist or
8 participate, in a proceeding or other action to carry out the purposes
9 of this title.

10 (8) Objecting to, or refusing to participate in, an activity, policy,
11 practice, or assigned task that the employee or representative
12 reasonably believes to be in violation of this title or any order,
13 rule, regulation, standard, or ban under this title.

14 (b) An employee covered by this section who alleges
15 discrimination by an employer in violation of subdivision (a) may
16 bring an action governed by the rules and procedures, legal burdens
17 of proof, and remedies applicable under the False Claims Act
18 (Article 9 (commencing with Section 12650) of Chapter 6 of Part
19 2 of Division 3 of Title 2) or Section 12990, or an action against
20 unfair competition pursuant to Chapter 5 (commencing with
21 Section 17200) of Part 2 of Division 7 of the Business and
22 Professions Code.

23 (c) (1) This section does not diminish the rights, privileges, or
24 remedies of an employee under any other law, regulation, or
25 collective bargaining agreement. The rights and remedies in this
26 section shall not be waived by an agreement, policy, form, or
27 condition of employment.

28 (2) This section does not preempt or diminish any other law or
29 regulation against discrimination, demotion, discharge, suspension,
30 threats, harassment, reprimand, retaliation, or any other manner
31 of discrimination.

32 (d) For purposes of this section:

33 (1) "Employer" means a person engaged in profit or
34 not-for-profit business or industry, including one or more
35 individuals, partnerships, associations, corporations, trusts,
36 professional membership organization including a certification,
37 disciplinary, or other professional body, unincorporated
38 organizations, nongovernmental organizations, or trustees, and
39 who is subject to liability for violating this title.

1 (2) “Employee” means an individual performing activities under
2 this title on behalf of an employer.

3 100634. (a) This section shall be effective on the date the
4 implementation period ends pursuant to paragraph (6) of
5 subdivision (e) of Section 100612.

6 (b) (1) An institutional or individual provider with a
7 participation agreement in effect shall not bill or enter into a private
8 contract with an individual eligible for benefits through CalCare
9 for a health care item or service that is a covered benefit through
10 CalCare.

11 (2) An institutional or individual provider with a participation
12 agreement in effect may bill or enter into a private contract with
13 an individual eligible for benefits through CalCare for a health
14 care item or service that is not a covered benefit through CalCare
15 if the following requirements are met:

16 (A) The contract and provider meet the requirements specified
17 in paragraphs (3) and (4).

18 (B) The health care item or service is not payable or available
19 through CalCare.

20 (C) The provider does not receive reimbursement, directly or
21 indirectly, from CalCare for the health care item or service, and
22 does not receive an amount for the health care item or service from
23 an organization that receives reimbursement, directly or indirectly,
24 for the health care item or service from CalCare.

25 (3) (A) A contract described in paragraph (2) shall be in writing
26 and signed by the individual, or authorized representative of the
27 individual, receiving the health care item or service before the
28 health care item or service is furnished pursuant to the contract,
29 and shall not be entered into at a time when the individual is facing
30 an emergency health care situation.

31 (B) A contract described in paragraph (2) shall clearly indicate
32 to the individual receiving the health care item or service that by
33 signing the contract, the individual agrees to all of the following:

34 (i) The individual shall not submit a claim or request that the
35 provider submit a claim to CalCare for the health care item or
36 service.

37 (ii) The individual is responsible for payment of the health care
38 item or service and understands that reimbursement shall not be
39 provided under CalCare for the health care item or service.

1 (iii) The individual understands that the limits under CalCare
2 do not apply to amounts that may be charged for the health care
3 item or service.

4 (iv) The individual understands that the provider is providing
5 services outside the scope of CalCare.

6 (4) A participating provider that enters into a contract described
7 in paragraph (2) shall have in effect, during the period a health
8 care item or service is to be provided pursuant to the contract, an
9 affidavit, which shall be filed with the board no later than 10 days
10 after the first contract to which the affidavit applies is entered into.
11 The affidavit shall identify the provider who is to furnish the
12 noncovered health care item or service, state that the provider will
13 not submit a claim to CalCare for a noncovered health care item
14 or service provided to a member, and be signed by the provider.

15 (5) If a provider signing an affidavit described in paragraph (4)
16 knowingly and willfully submits a claim to CalCare for a
17 noncovered health care item or service or receives reimbursement
18 or an amount for a health care item or service provided pursuant
19 to a private contract, all of the following apply:

20 (A) A contract described in paragraph (2) shall be void.

21 (B) A payment shall not be made under CalCare for a health
22 care item or service furnished by the provider during the two-year
23 period beginning on the date the affidavit was signed or the date
24 the claim was submitted, whichever is later. A payment made by
25 CalCare to the provider during that two-year period shall be
26 remitted to CalCare, plus interest.

27 (C) A payment received by the provider from the member,
28 CalCare, or other payer for a health care item or service furnished
29 during the period described in subparagraph (B) shall be remitted
30 to the payer, and damages shall be available to the payer pursuant
31 to Section 3294 of the Civil Code.

32 (6) An institutional or individual provider with a participation
33 agreement in effect may bill or enter into a private contract with
34 an individual ineligible for benefits under CalCare for a health
35 care item or service. Consistent with Section 100618, the
36 institutional or individual provider shall report to the board, on an
37 annual basis, aggregate information regarding services furnished
38 to ineligible individuals.

39 (c) (1) An institutional or individual provider without a
40 participation agreement in effect may bill or enter into a private

1 contract with an individual eligible for benefits under CalCare for
 2 a health care item or service that is a covered benefit through
 3 CalCare only if the contract and provider meet the requirements
 4 specified in paragraphs (2) and (3).

5 (2) (A) A contract described in paragraph (1) shall be in writing
 6 and signed by the individual, or authorized representative of the
 7 individual, receiving the health care item or service before the item
 8 or service is furnished pursuant to the contract, and shall not be
 9 entered into at a time when the individual is facing an emergency
 10 health care situation.

11 (B) A contract described in paragraph (1) shall clearly indicate
 12 to the individual receiving the health care item or service that by
 13 signing the contract, the individual agrees to all of the following:

14 (i) The individual understands that the individual has the right
 15 to have the health care item or service provided by another provider
 16 for which payment would be made under CalCare.

17 (ii) The individual shall not submit a claim or request that the
 18 provider submit a claim to CalCare for the health care item or
 19 service, even if the health care item or service is otherwise covered
 20 under CalCare.

21 (iii) The individual is responsible for payment of the health care
 22 item or service and understands that reimbursement shall not be
 23 provided under CalCare for the health care item or service.

24 (iv) The individual understands that the limits under CalCare
 25 do not apply to amounts that may be charged for the health care
 26 item or service.

27 (v) The individual understands that the provider is providing
 28 services outside the scope of CalCare.

29 (3) A provider that enters into a contract described in paragraph
 30 (1) shall have in effect, during the period a health care item or
 31 service is to be provided pursuant to the contract, an affidavit,
 32 which shall be filed with the board no later than 10 days after the
 33 first contract to which the affidavit applies is entered into. The
 34 affidavit shall identify the provider who is to furnish the health
 35 care item or service, state that the provider will not submit a claim
 36 to CalCare for a health care item or service provided to a member
 37 during a two-year period beginning on the date the affidavit was
 38 signed, and be signed by the provider.

39 (4) If a provider who signed an affidavit described in paragraph
 40 (3) knowingly and willfully submits a claim to CalCare for a health

1 care item or service or receives reimbursement or an amount for
2 a health care item or service provided pursuant to a private contract
3 described in an affidavit signed pursuant to paragraph (3), all of
4 the following apply:

5 (A) A contract described in paragraph (1) shall be void.

6 (B) A payment shall not be made under CalCare for a health
7 care item or service furnished by the provider during the two-year
8 period beginning on the date the affidavit was signed or the date
9 the claim was submitted, whichever is later. A payment made by
10 CalCare to the provider during that two-year period shall be
11 remitted to CalCare, plus interest.

12 (C) A payment received by the provider from the member,
13 CalCare program, or other payer for a health care item or service
14 furnished during the period described in subparagraph (B) shall
15 be remitted to the payer, and damages shall be available to the
16 payer pursuant to Section 3294 of the Civil Code.

17 (5) An institutional or individual provider without a participation
18 agreement in effect may bill or enter into a private contract with
19 an individual for a health care item or service that is not a benefit
20 under CalCare.

21

22 Article 2. Payment for Health Care Items and Services

23

24 100640. (a) The board shall adopt regulations regarding
25 contracting for, and establishing payment methodologies for,
26 covered health care items and services provided to members under
27 CalCare by participating providers. All payment rates under
28 CalCare shall be reasonable and reasonably related to all of the
29 following:

30 (1) The cost of efficiently providing the health care items and
31 services.

32 (2) Ensuring availability and accessibility of CalCare health
33 care services, including compliance with state requirements
34 regarding network adequacy, timely access, and language access.

35 (3) Maintaining an optimal workforce and the health care
36 facilities necessary to deliver quality, equitable health care.

37 (b) (1) Payment for health care items and services shall be
38 considered payment in full.

39 (2) A participating provider shall not charge a rate in excess of
40 the payment established through CalCare for a health care item or

1 service furnished under CalCare and shall not solicit or accept
2 payment from any member or third party for a health care item or
3 service furnished under CalCare, except as provided under a federal
4 program.

5 (3) This section does not preclude CalCare from acting as a
6 primary or secondary payer in conjunction with another third-party
7 payer when permitted by a federal program.

8 (c) Not later than the beginning of each fiscal quarter during
9 which an institutional provider of care, including a hospital, skilled
10 nursing facility, and chronic dialysis clinic, is to furnish health
11 care items and services under CalCare, the board shall pay to each
12 institutional provider a lump sum to cover all operating expenses
13 under a global budget as set forth in Section 100641. An
14 institutional provider receiving a global budget payment shall
15 accept that payment as payment in full for all operating expenses
16 for health care items and services furnished under CalCare, whether
17 inpatient or outpatient, by the institutional provider.

18 (d) (1) A group practice, county organized health system, or
19 local initiative may elect to be paid for health care items and
20 services furnished under CalCare either on a fee-for-service basis
21 under Section 100644 or on a salaried basis.

22 (2) A group practice, county organized health system, or local
23 initiative that elects to be paid on a salaried basis shall negotiate
24 salaried payment rates with the board annually, and the board shall
25 pay the group practice, county organized health system, or local
26 initiative at the beginning of each month.

27 (e) Health care items and services provided to members under
28 CalCare by individual providers or any other providers not paid
29 under subdivision (c) or (d) shall be paid for on a fee-for-service
30 basis under Section 100644.

31 (f) Capital-related expenses for specifically identified capital
32 expenditures incurred by participating providers shall meet the
33 requirements under Section 100645.

34 (g) Payment methodologies and payment rates shall include a
35 distinct component of reimbursement for direct and indirect costs
36 incurred by the institutional provider for graduate medical
37 education, as applicable.

38 (h) The board shall adopt, by regulation, payment methodologies
39 and procedures for paying for out-of-state health care services.

1 (i) (1) This article does not regulate, interfere with, diminish,
2 or abrogate a collective bargaining agreement, established
3 employee rights, or the right, obligation, or authority of a collective
4 bargaining representative under state or local law.

5 (2) This article does not compel, regulate, interfere with, or
6 duplicate the provisions of an established training program that is
7 operated under the terms of a collective bargaining agreement or
8 unilaterally by an employer or bona fide labor union.

9 (j) The board shall determine the appropriate use and allocation
10 of the special projects budget for the construction, renovation, or
11 staffing of health care facilities in rural, underserved, or health
12 professional or medical shortage areas, and to address health
13 disparities, including those based on race, ethnicity, national origin,
14 primary language use, age, disability, sex, including gender identity
15 and sexual orientation, geography, and socioeconomic status.

16 100641. (a) An institutional provider's global budget shall be
17 determined before the start of a fiscal year through negotiations
18 between the provider and the board. The global budget shall be
19 negotiated annually based on the payment factors described in
20 subdivision (d).

21 (b) An institutional provider's global budget shall be used only
22 to cover operating expenses associated with direct care for patients
23 for health care items and services covered under CalCare. An
24 institutional provider's global budget shall not be used for capital
25 expenditures, and capital expenditures shall not be included in the
26 global budget.

27 (c) The board, on a quarterly basis, shall review whether
28 requirements of the institutional provider's participation agreement
29 and negotiated global budget have been performed and shall
30 determine whether adjustment to the institutional provider's
31 payment is warranted.

32 (d) A payment negotiated pursuant to subdivision (a) shall take
33 into account, with respect to each provider, all of the following:

34 (1) The historical volume of services provided for each health
35 care item and service in the previous three-year period.

36 (2) The actual expenditures of a provider in the provider's most
37 recent Medicare cost report for each health care item and service,
38 or other cost report that may otherwise be adopted by the board,
39 compared to the following:

- 1 (A) The expenditures of other comparable institutional providers
- 2 in the state.
- 3 (B) The normative payment rates established under the
- 4 comparative payment rate systems pursuant to Section 100643,
- 5 including permissible adjustments to the rates for the health care
- 6 items and services.
- 7 (C) Projected changes in the volume and type of health care
- 8 items and services to be furnished.
- 9 (D) Employee wages.
- 10 (E) The provider’s maximum capacity to provide the health care
- 11 items and services.
- 12 (F) Education and prevention programs.
- 13 (G) Permissible adjustments to the provider’s operating budget
- 14 from the previous fiscal year due to factors including an increase
- 15 in primary or specialty care access, efforts to decrease health care
- 16 disparities in rural or medically underserved areas, a response to
- 17 emergent conditions, and proposed changes to patient care
- 18 programs at the institutional level.
- 19 (H) Any other factor determined appropriate by the board.
- 20 (3) In a rural or medically underserved area, the need to mitigate
- 21 the impact of the availability and accessibility of health care
- 22 services through increased global budget payment.
- 23 (e) A payment negotiated pursuant to subdivision (a) or payment
- 24 methodology shall not do any of the following:
- 25 (1) Take into account capital expenditures of the provider or
- 26 any other expenditure not directly associated with furnishing health
- 27 care items and services under CalCare.
- 28 (2) Be used by a provider for capital expenditures or other
- 29 expenditures associated with capital projects.
- 30 (3) Exceed the provider’s capacity to furnish health care items
- 31 and services covered under CalCare.
- 32 (4) Be used to pay or otherwise compensate a board member,
- 33 executive, or administrator of the institutional provider who has
- 34 an interest or relationship prohibited under paragraph (10) of
- 35 subdivision (b) of Section 100631 or paragraph (3) of subdivision
- 36 (c) of Section 100651.
- 37 (f) The board may negotiate changes to an institutional
- 38 provider’s global budget based on factors not prohibited under
- 39 subdivision (e) or any other provision of this title.

1 (g) Subject to subdivision (i) of Section 100640, compensation
2 costs for an employee, contractor employee, or subcontractor
3 employee of an institutional provider receiving a global budget
4 shall meet the compensation cap established in Section 4304(a)(16)
5 of Title 41 of the United States Code and its implementing
6 regulations, except that the board may establish one or more
7 narrowly targeted exceptions for scientists, engineers, or other
8 specialists upon a determination that those exceptions are needed
9 to ensure CalCare continued access to needed skills and
10 capabilities.

11 (h) A payment to an institutional provider pursuant to this
12 section shall not allow a participating provider to retain revenue
13 generated from outsourcing health care items and services covered
14 under CalCare, unless that revenue was considered part of the
15 global budget negotiation process. This subdivision shall apply to
16 revenue from outsourcing health care items and services that were
17 previously furnished by employees of the participating provider
18 who were subject to a collective bargaining agreement.

19 (i) For the purposes of this section, “operating expenses” of a
20 provider include the following:

21 (1) The costs associated with covered health care items and
22 services under CalCare, including the following:

23 (A) Compensation for health care professionals, ancillary staff,
24 and services employed or otherwise paid by an institutional
25 provider.

26 (B) Pharmaceutical products administered by health care
27 professionals at the institutional provider’s facility or facilities.

28 (C) Purchasing supplies.

29 (D) Maintenance of medical devices and health care
30 technologies, including diagnostic testing equipment, except that
31 health information technology and artificial intelligence shall be
32 considered capital expenditures, unless otherwise determined by
33 the board.

34 (E) Incidental services necessary for safe patient care.

35 (F) Patient care, education, and preventive health programs, and
36 necessary staff to implement those programs.

37 (G) Occupational health and safety programs and public health
38 programs, and necessary staff to implement those programs for
39 the continued education and health and safety of clinicians and
40 other individuals employed by the institutional provider.

1 (H) Infectious disease response preparedness, including the
2 maintenance of a one-year or 365-day stockpile of personal
3 protective equipment, occupational testing and surveillance, and
4 contact tracing.

5 (2) Administrative costs of the institutional provider.

6 100642. (a) The board shall consider an appeal of payments
7 and the global budget, filed by an institutional provider that is
8 subject to the payments or global budget, based on the following:

9 (1) The overall financial condition of the institutional provider,
10 including bankruptcy or financial solvency.

11 (2) Excessive risks to the ongoing operation of the institutional
12 provider.

13 (3) Justifiable differences in costs among providers, including
14 providing a service not available from other providers in the region,
15 or the need for health care services in rural areas with a shortage
16 of health professionals or medically underserved areas and
17 populations.

18 (4) Factors that led to increased costs for the institutional
19 provider that can reasonably be considered to be unanticipated and
20 out of the control of the provider. Those factors may include:

21 (A) Natural disasters.

22 (B) Outbreaks of epidemics or infectious diseases.

23 (C) Unanticipated facility or equipment repairs or purchases.

24 (D) Significant and unanticipated increases in pharmaceutical
25 or medical device prices.

26 (5) Changes in state or federal laws that result in a change in
27 costs.

28 (6) Reasonable increases in labor costs, including salaries and
29 benefits, and changes in collective bargaining agreements,
30 prevailing wage, or local law.

31 (b) (1) The payments set and global budget negotiated by the
32 board to be paid to the institutional provider shall stay in effect
33 during the appeal process, subject to interim relief provisions.

34 (2) The board shall have the power to grant interim relief based
35 on fairness. The board shall develop regulations governing interim
36 relief. The board shall establish uniform written procedures for
37 the submission, processing, and consideration of an interim relief
38 appeal by an institutional provider. A decision on interim relief
39 shall be granted within one month of the filing of an interim relief
40 appeal. An institutional provider shall certify in its interim relief

1 appeal that the request is made on the basis that the challenged
2 amount is arbitrary and capricious, or that the institutional provider
3 has experienced a bona fide emergency based on unanticipated
4 costs or costs outside the control of the entity, including those
5 described in paragraph (4) of subdivision (a).

6 (c) (1) In accordance with the Administrative Procedure Act
7 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2), the board may delegate the conduct of a
9 hearing to an administrative law judge, who shall issue a proposed
10 decision with findings of fact and conclusions of law.

11 (2) The administrative law judge may hold evidentiary hearings
12 and shall issue a proposed decision with findings of fact and
13 conclusions of law, including a recommended adjusted payment
14 or global budget, within four months of the filing of the appeal.

15 (3) Within 30 days of receipt of the proposed decision by the
16 administrative law judge, the board may approve, disapprove, or
17 modify the decision, and shall issue a final decision for the
18 appealing institutional provider.

19 (d) A final determination by the ~~commission~~ board shall be
20 subject to judicial review pursuant to Section 1094.5 of the Code
21 of Civil Procedure.

22 100643. (a) The board shall use existing Medicare prospective
23 payment systems to establish and serve as the comparative payment
24 rate system in global budget negotiations described in subparagraph
25 (B) of paragraph (2) of subdivision (d) of Section 100641. The
26 board shall update the comparative payment rate system annually.

27 (b) To develop the comparative payment rate system, the board
28 shall use only the operating base payment rates under each
29 Medicare prospective payment system with applicable adjustments.

30 (c) The comparative rate system shall not include value-based
31 purchasing adjustments or capital expenses base payment rates
32 that may be included in Medicare prospective payment systems.

33 (d) In the first year that global budget payments are available
34 to institutional providers, and for purposes of selecting a
35 comparative payment rate system used during initial global budget
36 negotiations for an institutional provider, the board shall take into
37 account the appropriate Medicare prospective payment system
38 from the most recent year to determine what operating base
39 payment the institutional provider would have been paid for
40 covered health care items and services furnished the preceding

1 year with applicable adjustments, excluding value-based purchasing
2 adjustments, based on the prospective payment system.

3 100644. (a) The board shall engage in good faith negotiations
4 with health care providers' representatives under Chapter 8
5 (commencing with Section ~~100800~~ 100675) to determine rates
6 of fee-for-service payment for health care items and services
7 furnished under CalCare.

8 (b) There shall be a rebuttable presumption that the Medicare
9 fee-for-service rates of reimbursement constitute reasonable
10 fee-for-service payment rates. The fee schedule shall be updated
11 annually.

12 (c) Payments to individual providers under this article shall not
13 include payments to individual providers in salaried positions at
14 institutional providers receiving global budgets under Section
15 100641 or individual health care professionals who are employed
16 by or otherwise receive compensation or payment for health care
17 items and services furnished under CalCare from group practices,
18 county organized health systems, or local initiatives that receive
19 payment under CalCare on a salaried basis.

20 (d) To establish the fee-for-service payment rates, the board
21 shall ensure that the fee schedule compensates physicians and other
22 health care professionals at a rate that reflects the value for health
23 care items and services furnished.

24 (e) In a rural or medically underserved area, the board may
25 mitigate the impact of the availability and accessibility of health
26 care services through increased individual provider payment.

27 100645. (a) (1) The board shall adopt, by regulation, payment
28 methodologies for the payment of capital expenditures for
29 specifically identified capital projects incurred by not-for-profit
30 or governmental entities that are health facilities pursuant to
31 Chapter 2 (commencing with Section 1250) of Division 2 of the
32 Health and Safety Code.

33 (2) The board shall prioritize allocation of funding under this
34 subdivision to projects that propose to use the funds to improve
35 service in a rural or medically underserved area, or to address
36 health disparities, including those based on race, ethnicity, national
37 origin, primary language use, age, disability, sex, including gender
38 identity and sexual orientation, geography, and socioeconomic
39 status. The board shall consider the impact of any prior reduction

1 in services or facility closure by a not-for-profit or governmental
2 entity as part of the application review process.

3 (3) For the purposes of funding capital expenditures under this
4 section, health care facilities and governmental entities shall apply
5 to the board in a time and manner specified by the board. All
6 capital-related expenses generated by a capital project shall have
7 received prior approval from the board to be paid under CalCare.

8 (b) Approval of an application for capital expenditures shall be
9 based on achievement of the program standards described in
10 Chapter 6 (commencing with Section 100650).

11 (c) The board shall not grant funding for capital expenditures
12 for capital projects that are financed directly or indirectly through
13 the diversion of private or other non-CalCare program funding
14 that results in reductions in care to patients, including reductions
15 in registered nursing staffing patterns and changes in emergency
16 room or primary care services or availability.

17 (d) A participating provider shall not use operating funds or
18 payments from CalCare for the operating expenses associated with
19 a capital asset that was not funded by CalCare without the approval
20 of the board.

21 (e) A participating provider shall not do either of the following:

22 (1) Use funds from CalCare designated for operating expenses
23 or payments for capital expenditures.

24 (2) Use funds from CalCare designated for capital expenditures
25 or payments for operating expenses.

26 100646. (a) (1) A margin generated by a participating provider
27 receiving a global budget under CalCare may be retained and used
28 to meet the health care needs of CalCare members.

29 (2) A participating provider shall not retain a margin if that
30 margin was generated through inappropriate limitations on access
31 to health care, compromises in the quality of care, or actions that
32 adversely affected or are likely to adversely affect the health of
33 the persons receiving services from an institutional provider, group
34 practice, or other participating provider under CalCare.

35 (3) The board shall evaluate the source of margin generation.

36 (b) A payment under CalCare, including provider payments for
37 operating expenses or capital expenditures, shall not take into
38 account, include a process for the funding of, or be used by a
39 provider for any of the following:

- 1 (1) Marketing, which does not include education and prevention
- 2 programs paid under a global budget.
- 3 (2) The profit or net revenue, or increasing the profit, net
- 4 revenue, or financial result of the provider.
- 5 (3) An incentive payment, bonus, or compensation based on
- 6 patient utilization of health care items or services or any financial
- 7 measure applied with respect to the provider or a group practice
- 8 or other entity that contracts with or provides health care items or
- 9 services, including pharmaceutical products and medical devices
- 10 or equipment, to the provider.
- 11 (4) A bonus, incentive payment, or incentive adjustment from
- 12 CalCare to a participating provider.
- 13 (5) A bonus, incentive payment, or compensation based on the
- 14 financial results of any other health care provider with which the
- 15 provider has a pecuniary interest or contractual relationship,
- 16 including employment or other compensation-based relationship.
- 17 (6) A bonus, incentive payment, or compensation based on the
- 18 financial results of an integrated health care delivery system, group
- 19 practice, or other provider.
- 20 (7) State political contributions.
- 21 (c) (1) The board shall establish and enforce penalties for
- 22 violations of this section, consistent with the Administrative
- 23 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
- 24 Part 1 of Division 3 of Title 2).
- 25 (2) Penalty payments collected for violations of this section
- 26 shall be remitted to the CalCare Trust Fund for use in CalCare.
- 27 100647. (a) The board shall, in consultation with the
- 28 Department of General Services, the Department of Health Care
- 29 Services, and other relevant state agencies, negotiate prices to be
- 30 paid for pharmaceuticals, medical supplies, medical technology,
- 31 and medically necessary assistive equipment covered through
- 32 CalCare. Negotiations by the board shall be on behalf of the entire
- 33 CalCare program. A state agency shall cooperate to provide data
- 34 and other information to the board.
- 35 (b) The board shall, in consultation with the Department of
- 36 General Services, the Department of Health Care Services, the
- 37 CalCare Public Advisory Committee, patient advocacy
- 38 organizations, physicians, registered nurses, pharmacists, and other
- 39 health care professionals, establish a prescription drug formulary

1 system. To establish the prescription drug formulary system, the
2 board shall do all of the following:

3 (1) Promote the use of generic and biosimilar medications.

4 (2) Consider the clinical efficacy of medications.

5 (3) Update the formulary frequently and allow health care
6 professionals, other clinicians, and members to petition the board
7 to add new pharmaceuticals or to remove ineffective or dangerous
8 medications from the formulary.

9 (4) Consult with patient advocacy organizations, physicians,
10 nurses, pharmacists, and other health care professionals to
11 determine the clinical efficacy and need for the inclusion of specific
12 medications in the formulary.

13 (c) The prescription drug formulary system shall not require a
14 prior authorization determination for coverage under CalCare and
15 shall not apply treatment limitations through the use of step therapy
16 protocols.

17 (d) The board shall promulgate regulations regarding the use
18 of off-formulary medications that allow for patient access.

19

20 CHAPTER 6. PROGRAM STANDARDS

21

22 100650. CalCare shall establish a single standard of safe,
23 therapeutic, and effective care for all residents of the state by the
24 following means:

25 (a) The board shall establish requirements and standards, by
26 regulation, for CalCare and health care providers, consistent with
27 this title and consistent with the applicable professional practice
28 and licensure standards of health care providers and health care
29 professionals established pursuant to the Business and Professions
30 Code, the Health and Safety Code, the Insurance Code, and the
31 Welfare and Institutions Code, including requirements and
32 standards for, as applicable:

33 (1) The scope, quality, and accessibility of health care items
34 and services.

35 (2) Relations between participating providers and members.

36 (3) Relations between institutional providers, group practices,
37 and individual health care organizations, including credentialing
38 for participation in CalCare and clinical and admitting privileges,
39 and terms, methods, and rates of payment.

1 (b) The board shall establish requirements and standards, by
2 regulation, under CalCare that include provisions to promote all
3 of the following:

4 (1) Simplification, transparency, uniformity, and fairness in the
5 following:

6 (A) Health care provider credentialing for participation in
7 CalCare.

8 (B) Health care provider clinical and admitting privileges in
9 health care facilities.

10 (C) Clinical placement for educational purposes, including
11 clinical placement for prelicensure registered nursing students
12 without regard to degree type, that prioritizes nursing students in
13 public education programs.

14 (D) Payment procedures and rates.

15 (E) Claims processing.

16 (2) In-person primary and preventive care, efficient and effective
17 health care items and services, quality assurance, and promotion
18 of public, environmental, and occupational health.

19 (3) Elimination of health care disparities.

20 (4) Nondiscrimination pursuant to Section 100621.

21 (5) Accessibility of health care items and services, including
22 accessibility for people with disabilities and people with limited
23 ability to speak or understand English.

24 (6) Providing health care items and services in a culturally,
25 linguistically, and structurally competent manner.

26 (c) The board shall establish requirements and standards, to the
27 extent authorized by federal law, by regulation, for replacing and
28 merging with CalCare health care items and services and ancillary
29 services currently provided by other programs, including Medicare,
30 the Affordable Care Act, and federally matched public health
31 programs.

32 (d) A participating provider shall furnish information as required
33 by the ~~Office of Statewide Health Planning and Development~~
34 *Department of Health Care Access and Information* pursuant to
35 Sections 100616 and 100631, and to Division 107 (commencing
36 with Section 127000) of the Health and Safety Code, and permit
37 examination of that information by the board as reasonably required
38 for purposes of reviewing accessibility and utilization of health
39 care items and services, quality assurance, cost containment, the
40 making of payments, and statistical or other studies of the operation

1 of CalCare or for protection and promotion of public,
2 environmental, and occupational health.

3 (e) The board shall use the data furnished under this title to
4 ensure that clinical practices meet the utilization, quality, and
5 access standards of CalCare. The board shall not use a standard
6 developed under this chapter for the purposes of establishing a
7 payment incentive or adjustment under CalCare.

8 (f) To develop requirements and standards and making other
9 policy determinations under this chapter, the board shall consult
10 with representatives of members, health care providers, health care
11 organizations, labor organizations representing health care
12 employees, and other interested parties.

13 100651. (a) (1) As part of a health care practitioner's duty to
14 advocate for medically appropriate health care for their patients
15 pursuant to Sections 510 and 2056 of the Business and Professions
16 Code, a participating provider has a duty to act in the exclusive
17 interest of the patient.

18 (2) The duty described in paragraph (1) applies to a health care
19 professional who may be employed by a participating provider or
20 otherwise receive compensation or payment for health care items
21 and services furnished under CalCare.

22 (b) Consistent with subdivision (a) and with Sections 510 and
23 2056 of the Business and Professions Code:

24 (1) An individual's treating physician, or other health care
25 professional who is authorized to diagnose the individual in
26 accordance with all applicable scope of practice and other license
27 requirements and is treating the individual, is responsible for the
28 determination of the medically necessary or appropriate care for
29 the individual.

30 (2) A participating provider or health care professional who
31 may be employed by CalCare or otherwise receive compensation
32 or payment for health care items and services furnished under
33 CalCare from a participating provider or other person participating
34 in CalCare shall use reasonable care and diligence in safeguarding
35 an individual under the care of the provider or professional and
36 shall not impair an individual's treating physician or other health
37 care provider treating the individual from advocating for medically
38 necessary or appropriate care under this section.

1 (c) A health care provider or health care professional described
2 in subdivision (a) violates the duty established under this section
3 for any of the following:

4 (1) Having a pecuniary interest or relationship, including an
5 interest or relationship disclosed under subdivision (d), that impairs
6 the provider’s ability to provide medically necessary or appropriate
7 care.

8 (2) Accepting a bonus, incentive payment, or compensation
9 based on any of the following:

10 (A) A patient’s utilization of services.

11 (B) The financial results of another health care provider with
12 which the participating provider has a pecuniary interest or
13 contractual relationship, including employment or other
14 compensation-based relationship, or of a person that contracts with
15 or provides health care items or services, including pharmaceutical
16 products and medical devices or equipment, to the provider.

17 (C) The financial results of an institutional provider, group
18 practice, or person that contracts with, provides health care items
19 or services under, or otherwise receives payment from CalCare.

20 (3) Having a board member, executive, or administrator that
21 receives compensation from, owns stock, or has other financial
22 investments in, or serves as a board member of an entity that
23 contracts with or provides health care items or services, including
24 pharmaceutical products and medical devices or equipment, to the
25 provider.

26 (d) To evaluate and review compliance with this section, a
27 participating provider shall report, at least annually, to the ~~Office~~
28 ~~of Statewide Health Planning and Development~~ *Department of*
29 *Health Care Access and Information* all of the following:

30 (1) A beneficial interest required to be disclosed to a patient
31 pursuant to Section 654.2 of the Business and Professions Code.

32 (2) A membership, proprietary interest, coownership, or
33 profit-sharing arrangement, required to be disclosed to a patient
34 pursuant to Section 654.1 of the Business and Professions Code.

35 (3) A subcontract entered into that contains incentive plans that
36 involve general payments, including capitation payments or shared
37 risk agreements, that are not tied to specific medical decisions
38 involving specific members or groups of members with similar
39 medical conditions.

1 (4) Bonus or other incentive arrangements used in compensation
2 agreements with another health care provider or an entity that
3 contracts with or provides health care items or services, including
4 pharmaceutical products and medical devices or equipment, to the
5 provider.

6 (5) An offer, delivery, receipt, or acceptance of rebates, refunds,
7 commission, preference, patronage dividend, discount, or other
8 consideration for a referral made in exception to Section 650 of
9 the Business and Professions Code.

10 (e) The board may adopt regulations as necessary to implement
11 and enforce this section and may adopt regulations to expand
12 reporting requirements under this section.

13 (f) For purposes of this section, “person” means an individual,
14 partnership, corporation, limited liability company, or other
15 organization, or any combination thereof, including a medical
16 group practice, independent practice association, preferred provider
17 organization, foundation, hospital medical staff and governing
18 body, or payer.

19 100652. (a) An individual’s treating physician, nurse, or other
20 health care professional, in implementing a patient’s medical or
21 nursing care plan and in accordance with their scope of practice
22 and licensure, may override health information technology or
23 clinical practice guidelines, including standards and guidelines
24 implemented by a participating provider through the use of health
25 information technology, including electronic health record
26 technology, clinical decision support technology, and computerized
27 order entry programs.

28 (b) An override described in subdivision (a) shall, in the
29 independent professional judgment of the treating physician, ~~nurse~~
30 *nurse*, or other health care professional, meet all of the following
31 requirements:

32 (1) The override is consistent with the treating physician’s,
33 ~~nurse’s~~ *nurse’s*, or other health care professional’s determination
34 of medical necessity or appropriateness or nursing assessment.

35 (2) The override is in the best interest of the patient.

36 (3) The override is consistent with the patient’s wishes.

CHAPTER 7. FUNDING

Article 1. Federal Health Programs and Funding

100660. (a) (1) The board is authorized to and shall seek all federal waivers and other federal approvals and arrangements and submit state plan amendments as necessary to operate CalCare consistent with this title.

(2) The board is authorized to apply for a federal waiver or federal approval as necessary to receive funds to operate CalCare pursuant to paragraph (1), including a waiver under Section 18052 of Title 42 of the United States Code.

(3) The board shall apply for federal waivers or federal approval pursuant to paragraph (1) by January 1, ~~2023~~ 2024.

(b) (1) The board shall apply to the United States Secretary of Health and Human Services or other appropriate federal official for all waivers of requirements, and make other arrangements, under Medicare, any federally matched public health program, the Affordable Care Act, and any other federal programs or laws, as appropriate, that are necessary to enable all CalCare members to receive all benefits under CalCare through CalCare, to enable the state to implement this title, and to allow the state to receive and deposit all federal payments under those programs, including funds that may be provided in lieu of premium tax credits, cost-sharing subsidies, and small business tax credits, in the State Treasury to the credit of the CalCare Trust Fund, created pursuant to Section 100665, and to use those funds for CalCare and other provisions under this title.

(2) To the fullest extent possible, the board shall negotiate arrangements with the federal government to ensure that federal payments are paid to CalCare in place of federal funding of, or tax benefits for, federally matched public health programs or federal health programs. To the extent any federal funding is not paid directly to CalCare, the state shall direct the funding and moneys to CalCare.

(3) The board may require members or applicants to provide information necessary for CalCare to comply with any waiver or arrangement under this title. Information provided by members to the board for the purposes of this subdivision shall not be used for any other purpose.

1 (4) The board may take any additional actions necessary to
2 effectively implement CalCare to the maximum extent possible
3 as an independent single-payer program consistent with this title.
4 It is the intent of the ~~legislature~~ *Legislature* to establish CalCare,
5 to the fullest extent possible, as an independent agency.

6 (c) The board may take actions consistent with this article to
7 enable CalCare to administer Medicare in California. CalCare shall
8 be a provider of supplemental insurance coverage and shall provide
9 premium assistance for drug coverage under Medicare Part D for
10 eligible members of CalCare.

11 (d) The board may waive or modify the applicability of any
12 provisions of this title relating to any federally matched public
13 health program or Medicare, as necessary, to implement any waiver
14 or arrangement under this section or to maximize the federal
15 benefits to CalCare under this section.

16 (e) The board may apply for coverage for, and enroll, any
17 eligible member under any federally matched public health program
18 or Medicare. Enrollment in a federally matched public health
19 program or Medicare shall not cause a member to lose a health
20 care item or service provided by CalCare or diminish any right the
21 member would otherwise have.

22 (f) (1) Notwithstanding any other law, the board, by regulation,
23 shall increase the income eligibility level, increase or eliminate
24 the resource test for eligibility, simplify any procedural or
25 documentation requirement for enrollment, and increase the
26 benefits for any federally matched public health program and for
27 any program in order to reduce or eliminate an individual's
28 coinsurance, cost-sharing, or premium obligations or increase an
29 individual's eligibility for any federal financial support related to
30 Medicare or the Affordable Care Act.

31 (2) The board may act under this subdivision, upon a finding
32 approved by the Director of Finance and the board that the action
33 does all of the following:

34 (A) Will help to increase the number of members who are
35 eligible for and enrolled in federally matched public health
36 programs, or for any program to reduce or eliminate an individual's
37 coinsurance, cost-sharing, or premium obligations or increase an
38 individual's eligibility for any federal financial support related to
39 Medicare or the Affordable Care Act.

1 (B) Will not diminish any individual's access to a health care
2 item or service or right the individual would otherwise have.

3 (C) Is in the interest of CalCare.

4 (D) Does not require or has received any necessary federal
5 waivers or approvals to ensure federal financial participation.

6 (g) To enable the board to apply for coverage for, and enroll,
7 any eligible member under any federally matched public health
8 program or Medicare, the board may require that every member
9 or applicant provide the information necessary to enable the board
10 to determine whether the applicant is eligible for a federally
11 matched public health program or for Medicare, or any program
12 or benefit under Medicare.

13 (h) As a condition of continued eligibility for health care items
14 and services under CalCare, a member who is eligible for benefits
15 under Medicare shall enroll in Medicare, including Parts A, B, and
16 D.

17 (i) The board shall provide premium assistance for all members
18 enrolling in a Medicare Part D drug coverage plan under Section
19 1860D of Title XVIII of the federal Social Security Act (42 U.S.C.
20 Sec. 1395w-101 et seq.), limited to the low-income benchmark
21 premium amount established by the federal Centers for Medicare
22 and Medicaid Services and any other amount the federal agency
23 establishes under its de minimis premium policy, except that those
24 payments made on behalf of members enrolled in a Medicare
25 Advantage plan may exceed the low-income benchmark premium
26 amount if determined to be cost effective to CalCare.

27 (j) If the board has reasonable grounds to believe that a member
28 may be eligible for an income-related subsidy under Section
29 1860D-14 of Title XVIII of the federal Social Security Act (42
30 U.S.C. Sec. 1395w-114), the member shall provide, and authorize
31 CalCare to obtain, any information or documentation required to
32 establish the member's eligibility for that subsidy. The board shall
33 attempt to obtain as much of the information and documentation
34 as possible from records that are available to it.

35 (k) The board shall make a reasonable effort to notify members
36 of their obligations under this section. After a reasonable effort
37 has been made to contact the member, the member shall be notified
38 in writing that the member has 60 days to provide the required
39 information. If the required information is not provided within the
40 60-day period, the member's coverage under CalCare may be

1 suspended until the issue is resolved. Information provided by a
2 member to the board for the purposes of this section shall not be
3 used for any other purpose.

4 (I) The board shall assume responsibility for all benefits and
5 services paid for by the federal government with those funds.

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Article 2. CalCare Trust Fund

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10 100665. (a) The CalCare Trust Fund is hereby created in the
11 State Treasury for the purposes of this title to be administered by
12 the CalCare Board. Notwithstanding Section 13340, all moneys
13 in the fund shall be continuously appropriated without regard to
14 fiscal year for the purposes of this title. Any moneys in the fund
15 that are unexpended or unencumbered at the end of a fiscal year
16 may be carried forward to the next succeeding fiscal year.

17 (b) Notwithstanding any other law, moneys deposited in the
18 fund shall not be loaned to, or borrowed by, any other special fund
19 or the General Fund, a county general fund or any other county
20 fund, or any other fund.

21 (c) The board shall establish and maintain a prudent reserve in
22 the fund to enable it to respond to costs including those of an
23 epidemic, pandemic, natural disaster, or other health emergency,
24 or market-shift adjustments related to patient volume.

25 (d) The board or staff of the board shall not utilize any funds
26 intended for the administrative and operational expenses of the
27 board for staff retreats, promotional giveaways, excessive executive
28 compensation, or promotion of federal or state legislative or
29 regulatory modifications.

30 (e) Notwithstanding Section 16305.7, all interest earned on the
31 moneys that have been deposited into the fund shall be retained
32 in the fund and used for purposes consistent with the fund.

33 (f) The fund shall consist of all of the following:

34 (1) All moneys obtained pursuant to legislation enacted as
35 proposed under Section 100670.

36 (2) Federal payments received as a result of any waiver of
37 requirements granted or other arrangements agreed to by the United
38 States Secretary of Health and Human Services or other appropriate
39 federal officials for health care programs established under
40 Medicare, any federally matched public health program, or the
Affordable Care Act.

1 (3) The amounts paid by the State Department of Health Care
2 Services that are equivalent to those amounts that are paid on behalf
3 of residents of this state under Medicare, any federally matched
4 public health program, or the Affordable Care Act for health
5 benefits that are equivalent to health benefits covered under
6 CalCare.

7 (4) Federal and state funds for purposes of the provision of
8 services authorized under Title XX of the federal Social Security
9 Act (42 U.S.C. Sec. 1397 et seq.) that would otherwise be covered
10 under CalCare.

11 (5) State moneys that would otherwise be appropriated to any
12 governmental agency, office, program, instrumentality, or
13 institution that provides health care items or services for services
14 and benefits covered under CalCare. Payments to the fund pursuant
15 to this section shall be in an amount equal to the money
16 appropriated for those purposes in the fiscal year beginning
17 immediately preceding the effective date of this title.

18 (g) All federal moneys shall be placed into the CalCare Federal
19 Funds Account, which is hereby created within the CalCare Trust
20 Fund.

21 (h) Moneys in the CalCare Trust Fund shall only be used for
22 the purposes established in this title.

23 (i) *(1) Before the delivery of the fiscal analysis required*
24 *pursuant to Section 100619:*

25 *(A) Moneys in the CalCare Trust fund shall not be used for*
26 *startup and administrative costs to implement Section 100612.*

27 *(B) Moneys in the CalCare Trust Fund may be used to design*
28 *and commission the fiscal analysis required pursuant to Section*
29 *100619.*

30 *(2) After delivery of the fiscal analysis required pursuant to*
31 *Section 100619, moneys in the CalCare Trust Fund may be used*
32 *for startup and administrative costs to implement Section 100612*
33 *only if the Legislature approves the implementation of CalCare*
34 *by statute, pursuant to subdivision (d) of Section 100619.*

35 100667. (a) The board annually shall prepare a budget for
36 CalCare that specifies a budget for all expenditures to be made for
37 covered health care items and services and shall establish
38 allocations for each of the budget components under subdivision
39 (b) that shall cover a three-year period.

1 (b) The CalCare budget shall consist of at least the following
2 components:

- 3 (1) An operating budget.
- 4 (2) A capital expenditures budget.
- 5 (3) A special projects budget.
- 6 (4) Program standards activities.
- 7 (5) Health professional education expenditures.
- 8 (6) Administrative costs.
- 9 (7) Prevention and public health activities.

10 (c) The board shall allocate the funds received among the
11 components described in subdivision (b) to ensure the following:

- 12 (1) The operating budget allows for participating providers to
13 meet the health care needs of the population.
- 14 (2) A fair allocation to the special projects budget to meet the
15 purposes described in subdivision (f) in a reasonable timeframe.
- 16 (3) A fair allocation for program standards activities.
- 17 (4) The health professional education expenditures component
18 is sufficient to meet the need for covered health care items and
19 services.

20 (d) The operating budget described in paragraph (1) of
21 subdivision (b) shall be used for payments to providers for health
22 care items and services furnished by participating providers under
23 CalCare.

24 (e) The capital expenditures budget described in paragraph (2)
25 of subdivision (b) shall be used for the construction or renovation
26 of health care facilities, excluding congregate or segregated
27 facilities for individuals with disabilities who receive long-term
28 services and supports under CalCare, and other capital
29 expenditures.

30 (f) (1) The special projects budget shall be used for the payment
31 to not-for-profit or governmental entities that are health facilities
32 pursuant to Chapter 2 (commencing with Section 1250) of Division
33 2 of the Health and Safety Code for the construction or renovation
34 of health care facilities, major equipment purchases, staffing in a
35 rural or medically underserved area, and to address health
36 disparities, including those based on race, ethnicity, national origin,
37 primary language use, age, disability, sex, including gender identity
38 and sexual orientation, geography, and socioeconomic status.

39 (2) To mitigate the impact of the payments on the availability
40 and accessibility of health care services, the special projects budget

1 may be used to increase payment to providers in a rural or
2 medically underserved area.

3 (g) For up to five years following the date on which benefits
4 first become available under CalCare, at least 1 percent of the
5 budget shall be allocated to programs providing transition
6 assistance pursuant to Section 100615.

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Article 3. CalCare Financing

10 100670. (a) It is the intent of the Legislature to enact legislation
11 that would develop a revenue plan, taking into consideration
12 anticipated federal revenue available for CalCare. In developing
13 the revenue plan, it is the intent of the Legislature to consult with
14 appropriate officials and stakeholders.

15 (b) It is the intent of the Legislature to enact legislation that
16 would require all state revenues from CalCare to be deposited in
17 an account within the CalCare Trust Fund to be established and
18 known as the CalCare Trust Fund Account.

19

20 CHAPTER 8. COLLECTIVE NEGOTIATION BY HEALTH CARE
21 PROVIDERS WITH CALCARE

22

23 Article 1. Definitions

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25 100675. For purposes of this chapter, the following definitions
26 apply:

27 (a) (1) "Health care provider" means a person who is licensed,
28 certified, registered, or authorized to practice a health care
29 profession pursuant to Division 2 (commencing with Section 500)
30 of the Business and Professions Code and who is either of the
31 following:

32 (A) An individual who practices that profession as a health care
33 professional or as an independent contractor.

34 (B) An owner, officer, shareholder, or proprietor of a health
35 care group practice that has elected to receive fee-for-service
36 payments from CalCare pursuant to subdivision (d) of Section
37 100640.

38 (2) A health care provider licensed, certified, registered, or
39 authorized to practice a health care profession pursuant to Division
40 2 (commencing with Section 500) of the Business and Professions

1 Code who practices as an employee of a health care provider is
2 not a health care provider for purposes of this chapter.

3 (b) “Health care provider’s representative” means a third party
4 that is authorized by a health care provider to negotiate on their
5 behalf with CalCare over terms and conditions affecting those
6 health care providers.

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Article 2. Authorized Collective Negotiation

10 100676. (a) Health care providers may meet and communicate
11 for the purpose of collectively negotiating with CalCare on any
12 matter relating to CalCare fee-for-service rates of payment for
13 health care items and services or procedures related to
14 fee-for-service payment under CalCare.

15 (b) This chapter does not allow a strike of CalCare by health
16 care providers related to the collective negotiations.

17 (c) This chapter does not allow or authorize terms or conditions
18 that would impede the ability of CalCare to comply with applicable
19 state or federal law.

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Article 3. Collective Negotiation Requirements

23 100677. (a) Collective negotiation under this chapter shall
24 meet all of the following requirements:

25 (1) A health care provider may communicate with other health
26 care providers regarding the terms and conditions to be negotiated
27 with CalCare.

28 (2) A health care provider may communicate with a health care
29 provider’s representative.

30 (3) A health care provider’s representative is the only party
31 authorized to negotiate with CalCare on behalf of the health care
32 providers as a group.

33 (4) A health care provider can be bound by the terms and
34 conditions negotiated by the health care provider’s representative.

35 (b) This chapter does not affect or limit the right of a health care
36 provider or group of health care providers to collectively petition
37 a governmental entity for a change in a law, rule, or regulation.

38 (c) This chapter does not affect or limit collective action or
39 collective bargaining on the part of a health care provider with the

1 health care provider’s employer or any other lawful collective
2 action or collective bargaining.

3 100678. (a) Before engaging in collective negotiations with
4 CalCare on behalf of health care providers, a health care provider’s
5 representative shall file with the board, in the manner prescribed
6 by the board, information identifying the representative, the
7 representative’s plan of operation, and the representative’s
8 procedures to ensure compliance with this chapter.

9 (b) A person who acts as the representative of negotiating parties
10 under this chapter shall pay a fee to the board to act as a
11 representative. The board, by regulation, shall set fees in amounts
12 deemed reasonable and necessary to cover the costs incurred by
13 the board in administering this chapter.

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15 Article 4. Prohibited Collective Action

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17 100679. (a) This chapter does not authorize competing health
18 care providers to act in concert in response to a health care
19 provider’s representative’s discussions or negotiations with
20 CalCare, except as authorized by other law.

21 (b) A health care provider’s representative shall not negotiate
22 an agreement that excludes, limits the participation or
23 reimbursement of, or otherwise limits the scope of services to be
24 provided by a health care provider or group of health care providers
25 with respect to the performance of services that are within the
26 health care provider’s scope of practice, license, registration, or
27 certificate.

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29 CHAPTER 9. OPERATIVE DATE

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31 100680. (a) Notwithstanding any other law, this title, except
32 for Chapter 1 (commencing with Section ~~100600~~ and 100600),
33 Chapter 2 (commencing with Section 100610), and Article 1
34 (commencing with Section 100660) of Chapter 7, shall not become
35 operative until the date the Secretary of California Health and
36 Human Services notifies the Secretary of the Senate and the Chief
37 Clerk of the Assembly in writing that the secretary has determined
38 that the CalCare Trust Fund has the revenues to fund the costs of
39 implementing this title.

1 (b) The California Health and Human Services Agency shall
2 publish a copy of the notice on its internet website.

3 (c) *The Secretary of California Health and Human Services*
4 *shall make a notification pursuant to subdivision (a) only if the*
5 *Legislature approves the implementation of CalCare by statute,*
6 *pursuant to subdivision (d) of Section 100619.*

7 (d) *Notwithstanding any other law, this title, except for Chapter*
8 *1 (commencing with Section 100600), Chapter 2 (commencing*
9 *with Section 100610), and Article 1 (commencing with Section*
10 *100660) of Chapter 7, shall not become operative until the people*
11 *of California approve a proposition that creates the revenue*
12 *mechanisms necessary to implement this title, after taking into*
13 *consideration consolidation of existing revenues for health care*
14 *coverage and anticipated savings from a single-payer health care*
15 *coverage and a health care cost control system.*

16 SEC. 3. The provisions of this act are severable. If any
17 provision of this act or its application is held invalid, that invalidity
18 shall not affect other provisions or applications that can be given
19 effect without the invalid provision or application.

20 SEC. 4. The Legislature finds and declares that Section 2 of
21 this act, which adds Sections 100610, 100616, and 100618 to the
22 Government Code, imposes a limitation on the public's right of
23 access to the meetings of public bodies or the writings of public
24 officials and agencies within the meaning of Section 3 of Article
25 I of the California Constitution. Pursuant to that constitutional
26 provision, the Legislature makes the following findings to
27 demonstrate the interest protected by this limitation and the need
28 for protecting that interest:

29 In order to protect private, confidential, and proprietary
30 information, it is necessary for that information to remain
31 confidential.