California Legislative Beat: Noteworthy 2017 Bills Still Pending That Should be Passed

As year two of the California legislative session goes into full swing, a couple of bills introduced in 2017 are still active and waiting to be passed. This month's post will look at four active 2017 bills that should be considered for passage.

SB 199: This bill authorizes the creation of an advisory committee to research and develop recommendations on the creation of a database to be titled California Health Care Cost, Quality, and Equity Atlas. This bill is the first step to creating a statewide database that would collect and analyze medical and pharmaceutical claims from private and public payers. Additionally, this bill is a follow up to SB 1159 (2016), which required the California Health and Human Services Agency (CHHSA) to report on the feasibility and implementation of the Atlas. The goal of this bill is to provide policymakers with information on health care system costs. In other words, this bill would ultimately guide the creation of an All Payer Claims Database (APCD), which the Source continues to track and has provided a primer on.

Why Support? This step-by-step process allows for a meaningful discussion on how the APCD should be implemented. Given how legislatures usually direct action before consideration, this bill is a refreshing, rightly cautious step to implementing a thoughtfully designed APCD.

SB 538: This bill would prohibit anticompetitive contractual provisions between hospitals or an affiliate of a hospital ("hospitals") and certain types of third-party administrators, health plans or health insurers ("payers"). The type of provisions that this bill would make void and unenforceable are (1) terms that set payment rates or terms for nonparticipating providers, who are affiliates of the hospital; (2)

terms that require payers to contract with one or more hospital-affiliated provider; (3) terms that require payers to attest to the contract terms between the hospital and the contracting agent; (4) terms that require arbitration for antitrust claims; (5) terms that require same cost-sharing for out-of-network hospital affiliates; and (6) terms to keep payment rates secret.

Why Support? This bill is an attempt to temper dominant hospital systems from imposing anticompetitive contractual provisions in a manner that would help such systems maintain market power and inflate hospital costs. The bill analysis asserts that "anticompetitive agreements are the leading cause of the high cost of healthcare in Northern California."[1] As this bill seeks to curb the market power of dominant hospital systems, its implementation would promote a more competitive market and possibly limit the increases in health care costs.

SB 687: This bill would require any nonprofit corporation that operates a health facility with a licensed emergency center to obtain written consent from the Attorney General for any sale, transfer, or lease that results from a planned elimination or reduction in the level of emergency medical services (EMS). This bill expands the current law, which states that nonprofit health facilities require written consent from the Attorney General to sell, transfer, or lease its assets, by including transactions that close or reduce emergency departments as decisions that require the Attorney General's written consent.

Why Support?: In 2014, California received an F rating from the American College of Emergency Physicians for its lack of emergency room beds.[2] Specifically, the author of this bill noted that "California experienced a 12% reduction in hospital emergency departments from 1996 to 2009 despite a 27% increase in visits" and that "loss of hospital emergency departments increases the risk of death by 15% for patients in the affected area who have a stroke or heart attack."[3] Less emergency departments leads to "overcrowding, longer waits, and diverted ambulances, which can lead to lower quality patient care and outcomes."[4] This bill ensures that emergency departments stay open and that any closure or reduction is given proper scrutiny and would not affect patient care.

AB 595: This bill would require health care service plans to seek approval from the Department of Managed Health Care (DMHC) before the merger, consolidation, acquisition, or the like of any health plan or health insurer.

Why Support?: According to the bill analysis, “research shows consolidation in the private health insurance industry leads to premium increases,” “reduced payments to providers” without the savings being passed to the consumers, no improvement in health care quality, and no evidence that “larger insurers are more likely to implement innovative payment and care management programs.”[5] Allowing the state regulator, DMHC, to scrutinize possible mergers and acquisitions to ensure that consumers and purchasers would not be adversely impacted would be a welcome comfort for consumers and their wallets.

These four health bills aim to control costs and maintain access to healthcare by increasing transparency of healthcare costs and preventing anticompetitive agreements and consolidation of market power. As evidenced above, these four bills would be helpful in reining in increases in healthcare costs and ensuring consumers access to proper and timely healthcare. Stay tuned to see how these bills turn out!

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[1] Sen. Com. on Health, Analysis of Sen. Bill No. 538, 2017-2018 Reg. Sess. at pg. 4 (Ca. 2017) (as amended Apr. 17, 2017).

[2] Eryn Brown, *Doctors give California an ‘F’ for lacking emergency room beds*, L.A. Times (Jan. 15, 2014).

[3] Sen. Judiciary Com., Analysis of Sen. Bill No. 687, 2017-2018 Reg. Sess. at pg. 8 (Ca. 2017) (as amended Apr. 6, 2017).

[4] Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Sen. Bill No.

687, 2017-2018 Reg. Sess. at pg. 5 (Ca. 2017) (as amended Sept. 7, 2017).

[5] Sen. Com. on Health, Analysis of Sen. Bill No. 538, 2017-2018 Reg. Sess. at pg. 4 (Ca. 2017) (as amended Apr. 17, 2017).