

AMENDED IN ASSEMBLY APRIL 30, 2024

AMENDED IN ASSEMBLY APRIL 9, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2200

Introduced by Assembly Member Kalra

**(Principal coauthors: Assembly Members Bryan, Wendy Carrillo,
Connolly, and Lee)**

(Principal coauthors: Senators Cortese and Gonzalez)

**(Coauthors: Assembly Members Addis, Bonta, Friedman, Haney,
Holden, Jackson, McCarty, McKinnor, Ortega, Reyes, Luz Rivas,
Santiago, and Ting)**

(Coauthors: Senators Becker and Laird)

February 7, 2024

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 2200, 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~~, 1975 (*Knox-Keene*), 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. *Under the bill, CalCare would be a health care service plan subject to Knox-Keene.* 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 make specified persons eligible to enroll as CalCare members during the implementation period, and would provide for automatic enrollment. 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 of an unspecified year, to conduct and deliver a fiscal analysis to determine whether or not CalCare may be implemented and if revenue is more likely than not to pay for program costs, as specified. The bill would establish an Advisory Commission on Long-Term Services and Supports to advise the board on matters of policy related to long-term services and supports. The bill would require the board to convene a CalCare Public Advisory Committee to advise the board on all matters of policy for CalCare, an Advisory Committee on Public Employees' Retirement System Health Benefits to provide recommendations related to public employee retiree health benefits, and a CalCare Health Workforce Working Group to provide the board with input on issues related to health care workforce education, recruitment, and retention. The bill would establish an Office of Health Equity within CalCare and under the direction of the Director of the Department of Health Care Access and Information to ensure health equity under the program and other health programs of the California Health and Human Services Agency and to support the board through specified actions.

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~~ *third-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. The bill would specify uses for moneys in the CalCare budget, including special projects for which not-for-profit or governmental entities may apply. 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. 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

1 by the plan's economic needs rather than patients' health care
2 needs.

3 (5) To address the fiscal crisis facing the health care system and
4 the state, and to ensure Californians get the health care they need,
5 comprehensive health care coverage needs to be provided.

6 (6) Billions of dollars that could be spent on providing equal
7 access to health care are wasted on administrative costs necessary
8 in a multipayer health care system. Resources and costs spent on
9 administration would be dramatically reduced in a single-payer
10 system, allowing health care professionals and hospitals to focus
11 on patient care instead.

12 (7) It is the intent of the Legislature to establish a comprehensive
13 universal single-payer health care coverage program and a health
14 care cost control system for the benefit of all residents of the state.

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

19 (2) It is the intent of the Legislature to work to obtain waivers
20 and other approvals relating to Medi-Cal, the federal Children's
21 Health Insurance Program, Medicare, PPACA, and any other
22 federal programs pertaining to the provision of health care so that
23 any federal funds and other subsidies that would otherwise be paid
24 to the State of California, Californians, and health care providers
25 would be paid by the federal government to the State of California
26 and deposited in the CalCare Trust Fund.

27 (3) Under those waivers and approvals, those funds would be
28 used for health care coverage that provides health care benefits
29 equal to or exceeded by those programs as well as other program
30 modifications, including elimination of cost sharing and insurance
31 premiums.

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

34 (5) If any necessary waivers or approvals are not obtained, it is
35 the intent of the Legislature that the state use state plan
36 amendments and seek waivers and approvals to maximize, and
37 make as seamless as possible, the use of funding from federally
38 matched public health programs and other federal health programs
39 in CalCare.

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

6 (7) It is the intent of the Legislature to provide universal health
7 care coverage with greater benefits and access to providers than
8 existing health coverage plans, including for Californians who
9 primarily receive care through an integrated health care delivery
10 system, that is free at the point of service and does not have
11 deductibles, coinsurance, premiums, or other cost-sharing.

12 (c) This act does not create an employment benefit, nor does
13 the act require, prohibit, or limit providing a health care
14 employment benefit.

15 (d) (1) It is not the intent of the Legislature to change or impact
16 in any way the role or authority of a licensing board or state agency
17 that regulates the standards for or provision of health care and the
18 standards for health care providers as established under current
19 law, including the Business and Professions Code, the Health and
20 Safety Code, the Insurance Code, and the Welfare and Institutions
21 Code.

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

27 (e) It is the intent of the Legislature that neither health
28 information technology nor clinical practice guidelines limit the
29 effective exercise of the professional judgment of physicians,
30 registered nurses, and other licensed health care professionals.
31 Physicians, registered nurses, and other licensed health care
32 professionals shall be free to override health information
33 technology and clinical practice guidelines if, in their professional
34 judgment and in accordance with their scope of practice and
35 licensure, it is in the best interest of the patient and consistent with
36 the patient's wishes.

37 (f) (1) It is the intent of the Legislature to prohibit CalCare, a
38 state agency, a local agency, or a public employee acting under
39 color of law from providing or disclosing to anyone, including the
40 federal government, any personally identifiable information

1 obtained, including a person's religious beliefs, practices, or
2 affiliation, national origin, ethnicity, or immigration status, for law
3 enforcement or immigration purposes.

4 (2) This act would also prohibit law enforcement agencies from
5 using CalCare's funds, facilities, property, equipment, or personnel
6 to investigate, enforce, or assist in the investigation or enforcement
7 of a criminal, civil, or administrative violation or warrant for a
8 violation of any requirement that individuals register with the
9 federal government or any federal agency based on religion,
10 national origin, ethnicity, immigration status, or other protected
11 category as recognized in the Unruh Civil Rights Act (Part 2
12 commencing with Section 51) of Division 1 of the Civil Code).

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

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

18
19 TITLE 23. THE CALIFORNIA GUARANTEED HEALTH
20 CARE FOR ALL ACT

21
22 CHAPTER 1. GENERAL PROVISIONS

23
24 100600. This title shall be known, and may be cited, as the
25 California Guaranteed Health Care for All Act.

26 100601. There is hereby established in state government the
27 California Guaranteed Health Care for All program, or CalCare,
28 to be governed by the CalCare Board pursuant to Chapter 2
29 (commencing with Section 100610).

30 100602. For the purposes of this title, the following definitions
31 apply:

32 (a) "Activities of daily living" means basic personal everyday
33 activities including eating, toileting, grooming, dressing, bathing,
34 and transferring.

35 (b) "Advisory commission" means the Advisory Commission
36 on Long-Term Services and Supports established pursuant to
37 Section 100614.

38 (c) "Affordable Care Act" or "PPACA" means the federal
39 Patient Protection and Affordable Care Act (Public Law 111-148),
40 as amended by the federal Health Care and Education

1 Reconciliation Act of 2010 (Public Law 111-152), and any
2 amendments to, or regulations or guidance issued under, those
3 acts.

4 (d) “Allied health practitioner” means a group of health
5 professionals who apply their expertise to prevent disease
6 transmission and diagnose, treat, and rehabilitate people of all ages
7 and in all specialties, together with a range of technical and support
8 staff, by delivering direct patient care, rehabilitation, treatment,
9 diagnostics, and health improvement interventions to restore and
10 maintain optimal physical, sensory, psychological, cognitive, and
11 social functions. Examples include audiologists, occupational
12 therapists, social workers, and radiographers.

13 (e) “Board” means the CalCare Board described in Section
14 100610.

15 (f) “CalCare” or “California Guaranteed Health Care for All”
16 means the California Guaranteed Health Care for All program
17 established in Section 100601.

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

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

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

30 ~~(j) “County organized health system” means a health system~~
31 ~~implemented pursuant to Part 4 (commencing with Section 101525)~~
32 ~~of Division 101 of the Health and Safety Code, and Article 2.8~~
33 ~~(commencing with Section 14087.5) of Chapter 7 of Part 3 of~~
34 ~~Division 9 of the Welfare and Institutions Code.~~

35 ~~(k)~~

36 (j) “Essential community provider” means a provider, as defined
37 in Section 156.235(c) of Title 45 of the Code of Federal
38 Regulations, as published February 27, 2015, in the Federal
39 Register (80 FR 10749), that serves predominantly low-income,
40 medically underserved individuals and that is one of the following:

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

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

7 (3) A federally qualified health center, as defined in Section
8 1395x(aa)(4) or Section 1396d(l)(2)(B) of Title 42 of the United
9 States Code.

10 (4) A rural health clinic, as defined in Section 1395x(aa)(2) or
11 1396d(l)(1) of Title 42 of the United States Code.

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

15 ~~(f)~~

16 (k) “Federally matched public health program” means the state’s
17 Medi-Cal program under Title XIX of the federal Social Security
18 Act (42 U.S.C. Sec. 1396 et seq.) and the federal Children’s Health
19 Insurance Program under Title XXI of the federal Social Security
20 Act (42 U.S.C. Sec. 1397aa et seq.).

21 ~~(m)~~

22 (l) “Fund” means the CalCare Trust Fund established pursuant
23 to Article 2 (commencing with Section 100675) of Chapter 7.

24 ~~(n)~~

25 (m) “Global budget” means the payment negotiated between an
26 institutional provider and the board pursuant to Section 100651.

27 ~~(o)~~

28 (n) “Group practice” means a professional corporation under
29 the Moscone-Knox Professional Corporation Act (Part 4
30 (commencing with Section 13400) of Division 3 of Title 1 of the
31 Corporations Code) that is a single corporation or partnership
32 composed of licensed doctors of medicine, doctors of osteopathy,
33 or other licensed health care professionals, and that provides health
34 care items and services primarily directly through physicians or
35 other health care professionals who are either employees or partners
36 of the organization.

37 ~~(p)~~

38 (o) “Health care professional” means a health care professional
39 licensed pursuant to Division 2 (commencing with Section 500)
40 of the Business and Professions Code, or licensed pursuant to the

1 Osteopathic Act or the Chiropractic Act, who, in accordance with
2 the professional's scope of practice, may provide health care items
3 and services under this title.

4 ~~(q)~~

5 (p) "Health care item or service" means a health care item or
6 service that is included as a benefit under CalCare.

7 ~~(r)~~

8 (q) "Health professional education expenditures" means
9 expenditures in hospitals and other health care facilities to cover
10 costs associated with teaching and related research activities.

11 ~~(s)~~

12 (r) "Home- and community-based services" means an integrated
13 continuum of service options available locally for older individuals
14 and functionally impaired persons who seek to maximize self-care
15 and independent living in the home or a home-like environment,
16 which includes the home- and community-based services that are
17 available through Medi-Cal pursuant to the home- and
18 community-based waiver program under Section 1915 of the
19 federal Social Security Act (42 U.S.C. Sec. 1396n) as of January
20 1, 2019.

21 ~~(t)~~

22 (s) "Implementation period" means the period under paragraph
23 (6) of subdivision (e) of Section 100612 during which CalCare is
24 subject to special eligibility and financing provisions until it is
25 fully implemented under that section.

26 ~~(u)~~

27 (t) "Institutional provider" means an entity that provides health
28 care items and services and is licensed pursuant to any of the
29 following:

30 (1) A health facility, as defined in Chapter 2 (commencing with
31 Section 1250) of Division 2 of the Health and Safety Code.

32 (2) A clinic licensed pursuant to Chapter 1 (commencing with
33 Section 1200) of Division 2 of the Health and Safety Code.

34 (3) A long-term health care facility, as defined in Section 1418
35 of the Health and Safety Code, or a program developed pursuant
36 to paragraph (1) of subdivision (i) of Section 100612.

37 (4) A county medical facility licensed pursuant to Chapter 2.5
38 (commencing with Section 1440) of Division 2 of the Health and
39 Safety Code.

1 (5) A residential care facility for persons with chronic,
2 life-threatening illness licensed pursuant to Chapter 3.01
3 (commencing with Section 1568.01) of Division 2 of the Health
4 and Safety Code.

5 (6) An Alzheimer’s daycare resource center licensed pursuant
6 to Chapter 3.1 (commencing with Section 1568.15) of Division 2
7 of the Health and Safety Code.

8 (7) A residential care facility for the elderly licensed pursuant
9 to Chapter 3.2 (commencing with Section 1569) of Division 2 of
10 the Health and Safety Code.

11 (8) A hospice licensed pursuant to Chapter 8.5 (commencing
12 with Section 1745) of Division 2 of the Health and Safety Code.

13 (9) A pediatric day health and respite care facility licensed
14 pursuant to Chapter 8.6 (commencing with Section 1760) of
15 Division 2 of the Health and Safety Code.

16 (10) A mental health care provider licensed pursuant to Division
17 4 (commencing with Section 4000) of the Welfare and Institutions
18 Code.

19 (11) A federally qualified health center, as defined in Section
20 1395x(aa)(4) or 1396d(l)(2)(B) of Title 42 of the United States
21 Code.

22 (v)

23 (u) “Instrumental activities of daily living” means activities
24 related to living independently in the community, including meal
25 planning and preparation, managing finances, shopping for food,
26 clothing, and other essential items, performing essential household
27 chores, communicating by phone or other media, and traveling
28 around and participating in the community.

29 (w)

30 (v) “Integrated health care delivery system” has the same
31 meaning as defined in paragraph (13) of subdivision (b) of Section
32 1182.14 of the Labor Code.

33 ~~(x) “Local initiative” means a prepaid health plan that is~~
34 ~~organized by, or designated by, a county government or county~~
35 ~~governments, or organized by stakeholders, of a region designated~~
36 ~~by the department to provide comprehensive health care to eligible~~
37 ~~Medi-Cal beneficiaries, including the entities established pursuant~~
38 ~~to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38,~~
39 ~~and 14087.96 of the Welfare and Institutions Code.~~

40 (y)

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

11 ~~(z)~~
12 (x) “Medicaid” or “medical assistance” means a program that
13 is one of the following:

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

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

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

29 ~~(ab)~~
30 (z) “Medicare” means Title XVIII of the federal Social Security
31 Act (42 U.S.C. Sec. 1395 et seq.) and the programs thereunder.

32 ~~(ae)~~
33 (aa) “Member” means an individual who is enrolled in CalCare.

34 ~~(ad)~~
35 (ab) “Out-of-state health care service” means a health care item
36 or service provided in person to a member while the member is
37 temporarily, for no more than 90 days, and physically located out
38 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 ~~(ae)~~

9 *(ac)* “Participating provider” means an individual or entity that
10 is a health care provider qualified under Section 100640 that has
11 a participation agreement pursuant to Section 100641 in effect
12 with the board to furnish health care items or services under
13 CalCare.

14 ~~(af)~~

15 *(ad)* “Prescription drugs” means prescription drugs as defined
16 in subdivision (n) of Section 130501 of the Health and Safety
17 Code.

18 ~~(ag)~~

19 *(ae)* “Resident” means an individual whose primary place of
20 abode is in this state, without regard to the individual’s immigration
21 status, who meets the California residence requirements adopted
22 by the board pursuant to subdivision-~~(k)~~ *(m)* of Section 100610.
23 The board shall be guided by the principles and requirements set
24 forth in the Medi-Cal program under Article 7 (commencing with
25 Section 50320) of Chapter 2 of Subdivision 1 of Division 3 of Title
26 22 of the California Code of Regulations.

27 ~~(ah)~~

28 *(af)* “Rural or medically underserved area” has the same
29 meaning as a “health professional shortage area” in Section 254e
30 of Title 42 of the United States Code.

31 100603. This title does not preempt a city, county, or city and
32 county from adopting additional health care coverage for residents
33 in that city, county, or city and county that provides more
34 protections and benefits to California residents than this title.

35 100604. To the extent any law is inconsistent with this title or
36 the legislative intent of the California Guaranteed Health Care for
37 All Act, this title shall apply and prevail, except when explicitly
38 provided otherwise by this title.

CHAPTER 2. GOVERNANCE

100610. (a) CalCare shall be governed by an executive board, known as the CalCare Board, consisting of nine voting members who are residents of California. The CalCare Board shall be an independent public entity not affiliated with an agency or department. Of the members of the board, ~~five~~ *four* shall be appointed by the Governor, two shall be appointed by the Senate Committee on Rules, ~~and~~ two shall be appointed by the Speaker of the ~~Assembly~~. *Assembly, and one shall be determined by the committee established pursuant to Section 100611.* The Secretary of California Health and Human Services or the secretary's designee shall serve as a nonvoting, ex officio member of the board.

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

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

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

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

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

(A) Two health care professionals who practice medicine. At least one shall be a practicing physician or medical doctor.

(B) One registered nurse.

(C) One public health *or mental health* professional.

~~(D) One mental health professional.~~

1 ~~(E)~~

2 (D) One member with an institutional provider background.

3 ~~(F) One representative~~

4 (E) *Two representatives* of a not-for-profit organization that
5 advocates for individuals who use health care in ~~California~~
6 *California*.

7 ~~(G)~~

8 (F) One representative of a labor organization.

9 ~~(H)~~

10 (G) One member of the committee established pursuant to
11 Section 100611, who shall serve on a rotating basis to be
12 determined by the committee.

13 (d) Each member of the board shall have the responsibility and
14 duty to meet the requirements of this title and all applicable state
15 and federal laws and regulations, to serve the public interest of the
16 individuals, employers, and taxpayers seeking health care coverage
17 through CalCare, and to ensure the operational well-being and
18 fiscal solvency of CalCare.

19 (e) (1) *An appointee to the board designated in subparagraph*
20 *(D), (E), (F), or (G) of paragraph (3) of subdivision (c) shall not*
21 *receive financial compensation from, or be employed by, a*
22 *participating provider under CalCare and shall not otherwise*
23 *receive funding from CalCare.*

24 (2) *An appointee to the board designated in subparagraph (A),*
25 *(B), or (C) of paragraph (3) of subdivision (c) shall not receive*
26 *financial compensation from a participating provider under*
27 *CalCare and shall not otherwise receive funding from CalCare,*
28 *except for the purposes of employment by a participating provider*
29 *to provide direct patient care and in a position that is not as an*
30 *officer or a managerial, supervisory, or confidential position.*

31 (3) *For purposes of this subdivision, an appointee's prohibited*
32 *financial compensation and employment does not include*
33 *employment by a participating provider as a tenured academic*
34 *instructor with duties and compensation unrelated to the health*
35 *care operations of the entity.*

36 (4) *For purposes of this subdivision, financial compensation*
37 *does not include compensation received pursuant to a retirement*
38 *plan.*

1 (5) *For purposes of this subdivision, financial compensation*
2 *does not include clinical volunteer services if all of the following*
3 *conditions are met:*

4 (A) *The board member is a health care professional who was*
5 *actively participating in that profession before appointment to the*
6 *board.*

7 (B) *The board member does not receive compensation for*
8 *performing volunteer services and does not have an ownership*
9 *interest or other financial interest in the entity, facility, clinic, or*
10 *provider group.*

11 (C) *The clinical volunteer services are performed at the*
12 *University of California or a nonprofit educational institution, a*
13 *facility, clinic, or provider group operated by, or affiliated with,*
14 *an academic medical center of either the University of California*
15 *or a nonprofit educational institution, or a facility, clinic, or*
16 *provider group operated by a state agency or county health system.*

17 (6) *For purposes of paragraph (5), compensation and financial*
18 *interest for a health care professional who performs clinical*
19 *volunteer services does not include either of the following:*

20 (A) *A contribution to a professional liability insurance program*
21 *made by the entity, facility, clinic, or provider group for the*
22 *member or staff.*

23 (B) *The provision of physical space, equipment, support staff,*
24 *or other supports made by the entity, facility, clinic, or provider*
25 *group for the member or staff necessary for the performance of*
26 *clinical volunteer services described in paragraph (5).*

27 (f) *The representation of varied interest groups on the board*
28 *shall be deemed essential to obtaining information for the*
29 *development of policy and decisions of the board. It shall not be*
30 *a conflict of interest for appointees to the board designated in*
31 *subparagraph (A), (B), (C), or (D) of paragraph (3) of subdivision*
32 *(c) to serve as members of the board. If any board member has a*
33 *financial interest, as described in Section 87103, the interest shall*
34 *be disclosed as a matter of official public record and shall be*
35 *described with particularity, as determined by the other members*
36 *of the board. A board member shall not make, participate in*
37 *making, or in any way attempt to use their position to influence a*
38 *decision of the board in which the member knows or has reason*
39 *to know that they have a financial interest.*

40 (e)

1 (g) In making appointments to the board, the appointing
2 authorities shall take into consideration the racial, ethnic, gender,
3 and geographical diversity of the state so that the board's
4 composition reflects the communities of California.

5 ~~(f)~~

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

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

26 ~~(g)~~

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

34 (1) Any source of income, other than gifts and other than loans
35 by a commercial lending institution in the regular course of
36 business on terms available to the public without regard to official
37 status, aggregating two hundred fifty dollars (\$250) or more in
38 value provided to, received by, or promised to the member within
39 12 months before the decision is made.

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

~~(h)~~

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

~~(i)~~

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

~~(j)~~

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

~~(k)~~

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

(n) Any violation of this section by a board member shall constitute grounds for disqualification as a board member.

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

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

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

(1) Four health care professionals.

(2) One registered nurse.

(3) One representative of a licensed health facility.

1 (4) One representative of an essential community provider.

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

4 (6) One behavioral health provider.

5 (7) One dentist or oral care specialist.

6 (8) One representative of private hospitals.

7 (9) One representative of public hospitals.

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

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

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

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

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

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

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

37 (h) Committee members, or their assistants, clerks, or deputies,
38 shall not use for personal benefit any information that is filed with,
39 or obtained by, the committee and that is not generally available
40 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 ensure the financial solvency of CalCare.

35 (3) Develop CalCare’s budget pursuant to Section 100676 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 100650) of
4 Chapter 5.

5 (5) Establish standards and criteria for the allocation of funds
6 from the CalCare Trust Fund pursuant to Section 100676.

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, or
14 mental or cognitive capacity, those who cannot read, and those
15 who do not speak or write English, are aware of their right to health
16 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 100685).

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 100660), 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 100617 and to Section 100641.

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 100637 and a system for independent
9 medical review pursuant to Section 100637.

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.

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

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

39 (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) (1) A carrier shall not offer benefits or cover health care
13 items or services for which coverage is offered to individuals under
14 CalCare.

15 (2) Notwithstanding paragraph (1), if otherwise authorized under
16 state law, a carrier may offer benefits to cover health care items
17 or services that are not offered to individuals under CalCare.

18 (3) This title does not prohibit a carrier from offering either of
19 the following:

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

23 (B) Benefits during the implementation period to individuals
24 who enrolled or may enroll as members of CalCare.

25 (4) Paragraph (1) applies to a carrier except as otherwise
26 prohibited by federal law.

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

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

32 (1) In consultation with the Advisory Committee on Public
33 Employees' Retirement System Health Benefits established under
34 Section 100616, accommodating employer retiree health benefits
35 for people who have been members of the Public Employees'
36 Retirement System, but live as retirees out of the state.

37 (2) Accommodating employer retiree health benefits for people
38 who earned or accrued those benefits while residing in the state
39 before the implementation of CalCare and live as retirees out of
40 the state.

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

6 100613. The board may contract with not-for-profit
7 organizations to provide both of the following:

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

11 (b) Assistance to a health care provider providing, seeking, or
12 considering whether to provide health care items and services
13 under CalCare.

14 100614. (a) There is hereby established in state government
15 an Advisory Commission on Long-Term Services and Supports,
16 to advise the board on matters of policy related to long-term
17 services and supports for CalCare.

18 (b) The advisory commission shall consist of 11 members who
19 are residents of California. Of the members of the advisory
20 commission, five shall be appointed by the Governor, three shall
21 be appointed by the Senate Committee on Rules, and three shall
22 be appointed by the Speaker of the Assembly. The members of
23 the advisory commission shall include all of the following:

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

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

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

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

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

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

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

36 (c) In making appointments pursuant to this section, the
37 Governor, the Senate Committee on Rules, and the Speaker of the
38 Assembly shall make good faith efforts to ensure that their
39 appointments, as a whole, reflect, to the greatest extent feasible,
40 the diversity of the population of people who use long-term services

1 and supports, including their race, ethnicity, national origin,
2 primary language use, age, disability, sex, including gender identity
3 and sexual orientation, geographic location, and socioeconomic
4 status.

5 (d) (1) A member of the advisory commission may continue
6 to serve until the appointment and qualification of that member's
7 successor. Vacancies shall be filled by appointment for the
8 unexpired term.

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

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

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

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

37 (g) The advisory commission shall elect a chairperson who shall
38 serve for two years and who may be reelected for an additional
39 two years.

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

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

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

20 100616. (a) The board shall establish an Advisory Committee
21 on Public Employees' Retirement System Health Benefits to
22 provide input, including recommendations, to the board on matters
23 of policy related to public employee retiree health benefits and
24 CalCare, including all of the following:

25 (1) Processes to obtain approval of CalCare as a health benefits
26 plan under public pension or retirement systems.

27 (2) Recommendations to the Legislature and Governor to
28 provide tax or other accommodations for people who have accrued
29 retiree health benefit contributions under public employees'
30 retirement systems.

31 (3) Recommendations to, and coordination with, public
32 employee retirement system boards to fully integrate beneficiaries
33 into CalCare.

34 (4) Processes to change or phase out health benefits under public
35 employees' retirement systems to fully integrate beneficiaries into
36 CalCare.

37 (5) Federal approvals that may support transition of Medicare
38 plans under public employees' retirement systems to CalCare.

39 (b) (1) The board shall appoint the members of the advisory
40 committee during the implementation period. Appointments shall

1 be made by a majority vote of the voting members of the board.
2 When appointing members to the advisory committee, the board
3 shall aim for broad representation, including, at a minimum, the
4 following representatives of public sector labor organizations: the
5 Public Employees' Retirement System, the State Teachers'
6 Retirement System, the University of California Retirement
7 System, and locally administered public pension or retirement
8 systems. At a minimum, one-half of the advisory committee
9 members shall be representatives of public sector labor
10 organizations.

11 (2) Each appointed member shall serve at the discretion of the
12 board and may be removed at any time by a majority vote of the
13 voting members of the board.

14 (3) Advisory committee members shall not have access to
15 confidential, nonpublic information that is accessible to the board
16 and office. Instead, the advisory committee shall only have access
17 to information that is publicly available. Neither the board nor the
18 office shall disclose any confidential, nonpublic information to
19 the advisory committee members.

20 (4) Advisory committee members shall receive reimbursement
21 for travel and other actual costs.

22 (c) The advisory committee shall meet at least four times per
23 year in a place convenient to the public. All meetings of the
24 advisory committee shall be open to the public, pursuant to the
25 Bagley-Keene Open Meeting Act (Article 9 (commencing with
26 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

27 (d) The board shall consider input, including recommendations,
28 from the advisory committee, along with public comments, in the
29 board's deliberation and decisionmaking.

30 100617. (a) The board shall utilize the data collected pursuant
31 to Chapter 1 (commencing with Section 128675) of Part 5 of
32 Division 107 of the Health and Safety Code to assess patient
33 outcomes and to review utilization of health care items and services
34 paid for by CalCare.

35 (b) As applicable to the type of provider, the board shall require
36 and enforce the collection and availability of all of the following
37 data to promote transparency, assess quality of care, compare
38 patient outcomes, and review utilization of health care items and
39 services paid for by CalCare, which shall be reported to the board

1 and, as applicable, the Department of Health Care Access and
2 Information or the Medical Board of California:

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

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

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

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

14 (B) Number of employees by employee classification or job
15 title and by patient care unit or department.

16 (C) Number of hours worked by the employees in each patient
17 care unit or department.

18 (D) Employee wage information by job title and patient care
19 unit or department.

20 (E) Number of registered nurses per staffed bed by patient care
21 unit or department.

22 (F) A description of all information technology, including health
23 information technology and artificial intelligence, used by the
24 provider and the dollar value of that information technology.

25 (G) Annual spending on information technology, including
26 health information technology, artificial intelligence, purchases,
27 upgrades, and maintenance.

28 (4) Risk-adjusted and raw outcome data, including:

29 (A) Risk-adjusted outcome reports for medical, surgical, and
30 obstetric procedures selected by the Department of Health Care
31 Access and Information pursuant to Sections 128745 to 128750,
32 inclusive, of the Health and Safety Code.

33 (B) Any other risk-adjusted outcome reports that the board may
34 require for medical, surgical, and obstetric procedures and
35 conditions as it deems appropriate.

36 (5) A disclosure made by a provider as set forth in Article 6
37 (commencing with Section 650) of Chapter 1 of Division 2 of the
38 Business and Professions Code.

39 (c) (1) The Medical Board of California shall collect data for
40 the outpatient surgery settings that the Medical Board of California

1 regulates that meets the Ambulatory Surgery Data Record
2 requirements of Section 128737 of the Health and Safety Code,
3 and shall submit that data to the CalCare Board.

4 (2) The CalCare Board shall make that data available as required
5 pursuant to subdivision (d).

6 (d) The board shall make all disclosed data collected under this
7 section publicly available and searchable through an internet
8 website and through the Department of Health Care Access and
9 Information public data sets.

10 (e) Consistent with state and federal privacy laws, the board
11 shall make available data collected through CalCare to the
12 Department of Health Care Access and Information and the
13 California Health and Human Services Agency, consistent with
14 this title and otherwise applicable law, to promote and protect
15 public, environmental, and occupational health.

16 (f) Before full implementation of CalCare, and, for providers
17 seeking to receive global budgets or salaried payments under
18 Article 2 (commencing with Section 100650) of Chapter 5, as
19 applicable, before the negotiation of initial payments, the board
20 shall provide for the collection and availability of the following
21 data:

22 (1) The number of patients served.

23 (2) The dollar value of the care provided, at cost, for all of the
24 following categories of Department of Health Care Access and
25 Information data items:

26 (A) Patients receiving charity care.

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

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

31 (g) The board shall regularly analyze information reported under
32 this section and shall establish rules and regulations to allow
33 researchers, scholars, participating providers, and others to access
34 and analyze data for purposes consistent with this title, without
35 compromising patient privacy.

36 (h) (1) The board shall establish regulations for the collection
37 and reporting of data to promote transparency, assess patient
38 outcomes, and review utilization of services provided by physicians
39 and other health care professionals, as applicable, and paid for by
40 CalCare.

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

4 (3) Data reporting required by participating providers under this
5 section shall supplement the data collected by the Department of
6 Health Care Access and Information and shall not modify or alter
7 other reporting requirements to governmental agencies.

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

11 (j) The board may coordinate and cooperate with the Department
12 of Health Care Access and Information or other health planning
13 agencies of the state to implement the requirements of this section.

14 100618. (a) The board shall establish and use a process to
15 enter into participation agreements with health care providers and
16 other contracts with contractors. A contract entered into pursuant
17 to this title shall be exempt from Part 2 (commencing with Section
18 10100) of Division 2 of the Public Contract Code, and shall be
19 exempt from the review or approval of the Department of General
20 Services. The board shall adopt a CalCare Contracting Manual
21 incorporating procurement and contracting policies and procedures
22 that shall be followed by CalCare. The policies and procedures in
23 the manual shall be substantially similar to the provisions contained
24 in the State Contracting Manual.

25 (b) The adoption, amendment, or repeal of a regulation by the
26 board to implement this section, including the adoption of a manual
27 pursuant to subdivision (a) and any procurement process conducted
28 by CalCare in accordance with the manual, is exempt from the
29 rulemaking provisions of the Administrative Procedure Act
30 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
31 Division 3 of Title 2).

32 100619. (a) Notwithstanding any other law, CalCare, a state
33 or local agency, or a public employee acting under color of law
34 shall not provide or disclose to anyone, including the federal
35 government, any personally identifiable information obtained,
36 including a person's religious beliefs, practices, or affiliation,
37 national origin, ethnicity, or immigration status, for law
38 enforcement or immigration purposes.

39 (b) Notwithstanding any other law, law enforcement agencies
40 shall not use CalCare moneys, facilities, property, equipment, or

1 personnel to investigate, enforce, or assist in the investigation or
2 enforcement of a criminal, civil, or administrative violation or
3 warrant for a violation of a requirement that individuals register
4 with the federal government or a federal agency based on religion,
5 national origin, ethnicity, immigration status, or other protected
6 category as recognized in the Unruh Civil Rights Act (Section 51
7 of the Civil Code).

8 100620. (a) On or before July 1, ____, the board shall conduct
9 and deliver a fiscal analysis to determine both of the following:

10 (1) Whether or not CalCare may be implemented.

11 (2) If revenue is more likely than not to be sufficient to pay for
12 program costs within eight years of CalCare's implementation.

13 (b) The board may contract with one or more independent
14 entities with the appropriate expertise or coordinate with other
15 state agencies to conduct the fiscal analysis.

16 (c) The board shall deliver, and upon request present, the fiscal
17 analysis to the Chair of the Senate Committee on Health, the Chair
18 of the Assembly Committee on Health, the Chair of the Senate
19 Committee on Appropriations, and the Chair of the Assembly
20 Committee on Appropriations.

21
22 CHAPTER 3. ELIGIBILITY AND ENROLLMENT
23

24 100630. (a) Every resident of the state shall be eligible and
25 entitled to enroll as a member of CalCare.

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

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

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

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

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

39 100631. (a) All residents of this state, no matter what their
40 sex, race, color, religion, ancestry, national origin, disability, age,

1 previous or existing medical condition, genetic information, marital
2 status, familial status, military or veteran status, sexual orientation,
3 gender identity or expression, pregnancy, pregnancy-related
4 medical condition, including termination of pregnancy, citizenship,
5 primary language, or immigration status, are entitled to full and
6 equal accommodations, advantages, facilities, privileges, or
7 services in all health care providers participating in CalCare.

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

13 (c) Discrimination prohibited under this section includes the
14 following:

15 (1) Exclusion of a person from participation in or denial of the
16 benefits of CalCare, except as expressly authorized by this title
17 for the purposes of enforcing eligibility standards in Section
18 100630.

19 (2) Reduction of a person's benefits.

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

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

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

30 CHAPTER 4. BENEFITS

31
32
33 100635. (a) Individuals enrolled for benefits under CalCare
34 are entitled to have payment made by CalCare to a participating
35 provider for the health care items and services in subdivision (c),
36 if medically necessary or appropriate for the maintenance of health
37 or for the prevention, diagnosis, treatment, or rehabilitation of a
38 health condition.

39 (b) The determination of medical necessity or appropriateness
40 shall be made by the member's treating physician or by a health

1 care professional who is treating that individual and is authorized
2 to make that determination in accordance with the scope of practice,
3 licensing, the program standards established in Chapter 6
4 (commencing with Section 100660), and by the board, and other
5 laws of the state.

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

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

10 (2) Inpatient and outpatient health care professional services
11 and other ambulatory patient services.

12 (3) Primary and preventive services, including chronic disease
13 management.

14 (4) Prescription drugs, biological products, and all contraceptive
15 items approved by the United States Food and Drug
16 Administration.

17 (5) Medical devices, equipment, appliances, and assistive
18 technology.

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

21 (7) Diagnostic imaging, laboratory services, and other diagnostic
22 and evaluative services.

23 (8) Comprehensive reproductive care, including abortion,
24 contraception, and assisted reproductive technology, maternity
25 care, 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) Comprehensive gender-affirming health care.

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

37 (16) Long-term services and supports described in Section
38 100636, including long-term services and supports covered under
39 Medi-Cal (Chapter 7 (commencing with Section 14000) of Part 3
40 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 (17) Care coordination.

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

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

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

11 (2) Child and adult immunizations.

12 (3) Hospice care.

13 (4) Care in a skilled nursing facility.

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

16 (6) Prenatal and postnatal care.

17 (7) Podiatric care.

18 (8) Blood and blood products.

19 (9) Dialysis.

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

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

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

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

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

38 (15) Language interpretation and translation for health care
39 items and services, including sign language and braille or other
40 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 100636. (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 100637. (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 100640. (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 100641.

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) (1) 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 (2) A participating provider shall accept onsite enrollment of
10 members and eligible individuals under the procedures established
11 pursuant to paragraph (1).

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

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

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

27 100641. (a) A health care provider shall enter into a
28 participation agreement with the board to qualify as a participating
29 provider under CalCare.

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

33 (1) Health care items and services to members shall be furnished
34 by the provider without discrimination, as required by Section
35 100631. This paragraph does not require the provision of a type
36 or class of health care items or services that are outside the scope
37 of the provider's normal practice.

38 (2) A charge shall not be made to a member for a covered health
39 care item or service, other than for payment authorized by this
40 title. Except as described in Section 100644, a contract shall not

1 be entered into with a patient for a covered health care item or
2 service.

3 (3) The provider shall follow the policies and procedures in the
4 CalCare Contracting Manual established pursuant to Section
5 100618.

6 (4) The provider shall furnish information reasonably required
7 by the board and shall meet the reporting requirements of Sections
8 100617 and 100661 for at least the following:

9 (A) Quality review by designated entities.

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

13 (C) Statistical or other studies required for the implementation
14 of this title.

15 (D) Other purposes specified by the board.

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

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

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

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

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

38 (ii) Any case mix indexes, diagnosis coding guidelines,
39 procedure coding guidelines, or coding tip sheets used by the

1 provider for the purposes of meeting payment or disclosure
2 requirements under this title.

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

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

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

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

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

22 (9) The provider shall comply with the duty of patient advocacy
23 and reporting requirements described in Section 100661.

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

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

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

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

4 (c) This section does not limit the formation of group practices.

5 100642. (a) A participation agreement may be terminated with
6 appropriate notice by the board for failure to meet the requirements
7 of this title or may be terminated by a provider.

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

12 (c) The procedures and penalties under the Medi-Cal program
13 for fraud or abuse pursuant to Sections 14107, 14107.11, 14107.12,
14 14107.13, 14107.2, 14107.3, 14107.4, 14107.5, and 14108 of the
15 Welfare and Institutions Code shall apply to an applicant or
16 provider under CalCare.

17 (d) For purposes of this section:

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

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

30 100643. (a) A person shall not discharge or otherwise
31 discriminate against an employee on account of the employee or
32 a person acting pursuant to a request of the employee for any of
33 the following:

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

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

39 (3) Providing, causing to be provided, or being about to provide
40 or cause to be provided to the provider, the federal government,

1 or the Attorney General information relating to a violation of, or
2 an act or omission the provider or representative reasonably
3 believes to be a violation of, this title.

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

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

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

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

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

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

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

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

35 (d) For purposes of this section:

36 (1) "Employer" means a person engaged in profit or
37 not-for-profit business or industry, including one or more
38 individuals, partnerships, associations, corporations, trusts,
39 professional membership organization including a certification,
40 disciplinary, or other professional body, unincorporated

1 organizations, nongovernmental organizations, or trustees, and
2 who is subject to liability for violating this title.

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

5 100644. (a) This section shall be effective on the date the
6 implementation period ends pursuant to paragraph (6) of
7 subdivision (e) of Section 100612.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (6) An institutional or other health care provider with a
36 participation agreement in effect may bill or enter into a private
37 contract with an individual ineligible for benefits under CalCare
38 for a health care item or service. Consistent with Section 100619,
39 the institutional or other health care provider shall report to the

1 board, on an annual basis, aggregate information regarding services
2 furnished to ineligible individuals.

3 (c) (1) An institutional or other health care provider without a
4 participation agreement in effect may bill or enter into a private
5 contract with an individual eligible for benefits under CalCare for
6 a health care item or service that is a covered benefit through
7 CalCare only if the contract and provider meet the requirements
8 specified in paragraphs (2) and (3).

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

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

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

21 (ii) The individual shall not submit a claim or request that the
22 provider submit a claim to CalCare for the health care item or
23 service, even if the health care item or service is otherwise covered
24 under CalCare.

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

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

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

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

1 during a two-year period beginning on the date the affidavit was
2 signed, and be signed by the provider.

3 (4) If a provider who signed an affidavit described in paragraph
4 (3) knowingly and willfully submits a claim to CalCare for a health
5 care item or service or receives reimbursement or an amount for
6 a health care item or service provided pursuant to a private contract
7 described in an affidavit signed pursuant to paragraph (3), all of
8 the following apply:

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

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

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

21 (5) An institutional or other health care provider without a
22 participation agreement in effect may bill or enter into a private
23 contract with an individual for a health care item or service that is
24 not a benefit under CalCare.

25 Article 2. Payment for Health Care Items and Services

26 100650. (a) The board shall adopt regulations regarding
27 contracting for, and establishing payment methodologies for,
28 covered health care items and services provided to members under
29 CalCare by participating providers. All payment rates under
30 CalCare shall be reasonable and reasonably related to all of the
31 following:
32 following:

33 (1) The cost of efficiently providing health care items and
34 services.

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

38 (3) Maintaining an optimal workforce and the health care
39 facilities necessary to deliver quality, equitable health care.
40

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

3 (2) A participating provider shall not charge a rate in excess of
4 the payment established through CalCare for a health care item or
5 service furnished under CalCare and shall not solicit or accept
6 payment from any member or third party for a health care item or
7 service furnished under CalCare, except as provided under a federal
8 program.

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

12 (c) Not later than the beginning of each fiscal quarter during
13 which an institutional provider of care, including a hospital, skilled
14 nursing facility, and chronic dialysis clinic, is to furnish health
15 care items and services under CalCare, the board shall pay to each
16 institutional provider a lump sum to cover all operating expenses
17 under a global budget as set forth in Section 100651. An
18 institutional provider receiving a global budget payment shall
19 accept that payment as payment in full for all operating expenses
20 for health care items and services furnished under CalCare, whether
21 inpatient or outpatient, by the institutional provider.

22 (d) (1) A ~~group practice, county organized health system, or~~
23 ~~local initiative practice~~ may elect to be paid for health care items
24 and services furnished under CalCare either on a fee-for-service
25 basis under Section 100655 or on a salaried basis.

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

31 (3) The board may determine whether a ~~group practice, county~~
32 ~~organized health system, or local initiative practice~~ may elect to
33 be paid on an hourly or other time-based rate for certain health
34 care items and services furnished under CalCare, including primary
35 and preventive care and care coordination.

36 (e) Health care items and services provided to members under
37 CalCare by individual providers or any other providers not paid
38 under subdivision (c) or (d) shall be paid for on a fee-for-service
39 basis under Section 100655.

1 (f) Capital-related expenses for specifically identified capital
2 expenditures incurred by participating providers shall meet the
3 requirements under Section 100656.

4 (g) Payment methodologies and payment rates shall include a
5 distinct component of reimbursement for direct and indirect costs
6 incurred by the institutional provider for graduate medical
7 education, as applicable.

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

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

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

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

25 100651. (a) An institutional provider's global budget shall be
26 determined before the start of a fiscal year through negotiations
27 between the provider and the board. The global budget shall be
28 negotiated annually based on the payment factors described in
29 subdivision (d).

30 (b) An institutional provider's global budget shall be used only
31 to cover operating expenses associated with direct care for patients
32 for health care items and services covered under CalCare. An
33 institutional provider's global budget shall not be used for capital
34 expenditures, and capital expenditures shall not be included in the
35 global budget.

36 (c) The board, on a quarterly basis, shall review whether
37 requirements of the institutional provider's participation agreement
38 and negotiated global budget have been performed and shall
39 determine whether adjustment to the institutional provider's
40 payment is warranted.

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

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

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

(A) The expenditures of other comparable institutional providers in the state.

(B) The normative payment rates established under the comparative payment rate systems pursuant to Section 100654, including permissible adjustments to the rates for the health care items and services.

(C) Projected changes in the volume and type of health care items and services to be furnished.

(D) Employee wages and compensation.

(E) The provider's maximum capacity to provide health care items and services.

(F) Education and prevention programs.

(G) Health care workforce recruitment and retention programs, including programs to maintain optimal staffing levels of health care workers as established by the board and to maintain mandatory minimum safe registered nurse-to-patient ratio regulations adopted pursuant to Section 1276.4 of the Health and Safety Code.

(H) Permissible adjustments to the provider's operating budget from the previous fiscal year due to factors including an increase in primary or specialty care access, efforts to decrease health care disparities in rural or medically underserved areas, a response to emergent conditions, and proposed changes to patient care programs at the institutional level.

(I) Any other factor determined appropriate by the board.

(3) In a rural or medically underserved area, the need to mitigate the impact of the availability and accessibility of health care services through increased global budget payment.

(e) A payment negotiated pursuant to subdivision (a) or payment methodology shall not do any of the following:

(1) Take into account capital expenditures of the provider or any other expenditure not directly associated with furnishing health care items and services under CalCare.

1 (2) Be used by a provider for capital expenditures or other
2 expenditures associated with capital projects.

3 (3) Exceed the provider's capacity to furnish health care items
4 and services covered under CalCare.

5 (4) Be used to pay or otherwise compensate a board member,
6 executive, or administrator of the institutional provider who has
7 an interest or relationship prohibited under paragraph (10) of
8 subdivision (b) of Section 100641 or paragraph (3) of subdivision
9 (c) of Section 100661.

10 (5) Take into account relief pending appeal granted to a provider
11 under Section 100653.

12 (f) The board may negotiate changes to an institutional
13 provider's global budget based on factors not prohibited under
14 subdivision (e) or any other provision of this title.

15 (g) Subject to subdivision (i) of Section 100650, compensation
16 costs for an employee, contractor employee, or subcontractor
17 employee of an institutional provider receiving a global budget
18 shall meet the compensation cap established in Section 4304(a)(16)
19 of Title 41 of the United States Code and its implementing
20 regulations, except that the board may establish one or more
21 narrowly targeted exceptions for scientists, engineers, or other
22 specialists upon a determination that those exceptions are needed
23 to ensure CalCare continued access to needed skills and
24 capabilities.

25 (h) A payment to an institutional provider pursuant to this
26 section shall not allow a participating provider to retain revenue
27 generated from outsourcing health care items and services covered
28 under CalCare, unless that revenue was considered part of the
29 global budget negotiation process. This subdivision shall apply to
30 revenue from outsourcing health care items and services that were
31 previously furnished by employees of the participating provider
32 who were subject to a collective bargaining agreement.

33 (i) For the purposes of this section, "operating expenses" of a
34 provider include the following:

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

37 (A) Compensation for health care professionals, ancillary staff,
38 and services employed or otherwise paid by an institutional
39 provider.

1 (B) Pharmaceutical products administered by health care
2 professionals at the institutional provider's facility or facilities.

3 (C) Purchasing supplies.

4 (D) Maintenance of medical devices and health care
5 technologies, including diagnostic testing equipment, except that
6 health information technology that is not necessary to comply with
7 data collection and reporting requirements under this title or
8 otherwise required by law and artificial intelligence shall be
9 considered capital expenditures, unless otherwise determined by
10 the board.

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

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

14 (G) Occupational health and safety programs and public health
15 programs, and necessary staff to implement those programs for
16 the continued education and health and safety of clinicians and
17 other individuals employed by the institutional provider.

18 (H) Infectious disease response preparedness, including the
19 maintenance of a one-year or 365-day stockpile of personal
20 protective equipment, occupational testing and surveillance, and
21 contact tracing.

22 (I) Recruitment, retention, and training of health care
23 professionals, ancillary staff, and services employed or otherwise
24 paid by an institutional provider, including programs to maintain
25 optimal staffing levels of health care workers as established by the
26 board and to maintain mandatory minimum safe registered
27 nurse-to-patient ratio regulations adopted pursuant to Section
28 1276.4 of the Health and Safety Code.

29 (2) Administrative costs of the institutional provider.

30 100652. (a) The board shall consider a request for interim
31 payment, filed by an institutional provider that is subject to the
32 payments or global budget, *or filed by health care workers of an*
33 *institutional provider that is subject to the payment or global*
34 *budget or their representatives*, based on the following:

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

37 (2) Excessive risks to the ongoing operation of the institutional
38 provider.

39 (3) Justifiable differences in costs among providers, including
40 providing a service not available from other providers in the region,

1 or the need for health care services in rural areas with a shortage
2 of health professionals or medically underserved areas and
3 populations.

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

7 (A) Natural disasters.

8 (B) Outbreaks of epidemics or infectious diseases.

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

10 (D) Significant and unanticipated increases in pharmaceutical
11 or medical device prices.

12 (E) Public health emergencies.

13 (5) Changes in state or federal laws that result in a change in
14 costs.

15 (6) Reasonable increases in labor costs, including salaries and
16 benefits, and changes in collective bargaining agreements,
17 prevailing wage, or local law.

18 (b) The board shall establish uniform written procedures under
19 which it reviews requests for interim payment pursuant to
20 subdivision (a), including procedures to provide immediate
21 payment in the event of a public health emergency.

22 (c) On a quarterly basis, the board shall review the global budget
23 and payments to institutional providers that are not-for-profit or
24 governmental entities and may initiate an interim payment review
25 under subdivision (b) based on the factors set forth in this section.

26 100653. (a) The board shall consider an appeal of payments,
27 the global budget, or a determination of a request for interim
28 payment, filed by an institutional provider that is subject to the
29 payment or global ~~budget~~. *budget or filed by health care workers*
30 *of an institutional provider that is subject to the payment or global*
31 *budget or their representatives.*

32 (b) (1) The payments set and global budget negotiated by the
33 board to be paid to the institutional provider shall stay in effect
34 during the appeal process, subject to relief pending appeal under
35 this subdivision.

36 (2) The board shall have the power to grant interim relief based
37 on fairness. The board shall develop regulations governing interim
38 relief. The board shall establish uniform written procedures for
39 the submission, processing, and consideration of an interim relief
40 appeal by an institutional provider. A decision on interim relief

1 shall be granted within one month of the filing of an interim relief
2 appeal. An institutional provider shall certify in its interim relief
3 appeal that the request is made on the basis that the challenged
4 amount is arbitrary and capricious, or that the institutional provider
5 has experienced a bona fide emergency based on unanticipated
6 costs or costs outside the control of the entity, including those
7 described in paragraph (4) of subdivision (a) of Section 100652.

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

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

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

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

23 100654. (a) The board shall use existing Medicare prospective
24 payment systems to establish and serve as the comparative payment
25 rate system in global budget negotiations described in subparagraph
26 (B) of paragraph (2) of subdivision (d) of Section 100651. The
27 board shall update the comparative payment rate system annually.

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

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

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

1 covered health care items and services furnished the preceding
2 year with applicable adjustments, excluding value-based purchasing
3 adjustments, based on the prospective payment system.

4 100655. (a) The board shall engage in good faith negotiations
5 with health care providers' representatives under Chapter 8
6 (commencing with Section 100685) to determine rates of
7 fee-for-service payments for health care items and services
8 furnished under CalCare.

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

13 (c) Payments to individual providers under this article shall not
14 include payments to individual providers in salaried positions at
15 institutional providers receiving global budgets under Section
16 100651 or individual health care professionals who are employed
17 by or otherwise receive compensation or payment for health care
18 items and services furnished under CalCare from group practices,
19 ~~county organized health systems, or local initiatives~~ practices that
20 receive payment under CalCare on a salaried basis.

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

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

28 (f) *The board shall consider a request for interim payment, filed*
29 *by a health care provider that is subject to the payments under*
30 *this section, or by health care workers of a health care provider*
31 *that is subject to the payments under this section or their*
32 *representatives, based on the factors and procedures developed*
33 *pursuant to Section 100652.*

34 100656. (a) (1) The board shall adopt, by regulation, payment
35 methodologies for the payment of capital expenditures for
36 specifically identified capital projects incurred by not-for-profit
37 or governmental entities that are health facilities pursuant to
38 Chapter 2 (commencing with Section 1250) of Division 2 of the
39 Health and Safety Code.

(2) The board shall prioritize allocation of funding under this subdivision to projects that propose to use the funds to improve service in a rural or medically underserved area, or to address health disparities, including those based on race, ethnicity, national origin, primary language use, age, disability, sex, including gender identity and sexual orientation, geography, and socioeconomic status. The board shall consider the impact of any prior reduction in services or facility closure by a not-for-profit or governmental entity as part of the application review process.

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

(b) Approval of an application for capital expenditures shall be based on achievement of the program standards described in Chapter 6 (commencing with Section 100660).

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

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

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

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

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

100657. (a) (1) A margin generated by a participating provider receiving a global budget under CalCare may be retained and used to meet the health care needs of CalCare members.

(2) A participating provider shall not retain a margin if that margin was generated through inappropriate limitations on access to health care, compromises in the quality of care, or actions that adversely affected or are likely to adversely affect the health of

1 the persons receiving services from an institutional provider, group
2 practice, or other participating provider under CalCare.

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

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

8 (1) Marketing, which does not include education and prevention
9 programs paid under a global budget.

10 (2) The profit or net revenue, or increasing the profit, net
11 revenue, or financial result of the provider.

12 (3) An incentive payment, bonus, or compensation based on
13 patient utilization of health care items or services or any financial
14 measure applied with respect to the provider or a group practice
15 or other entity that contracts with or provides health care items or
16 services, including pharmaceutical products and medical devices
17 or equipment, to the provider.

18 (4) A bonus, incentive payment, or incentive adjustment from
19 CalCare to a participating provider.

20 (5) A bonus, incentive payment, or compensation based on the
21 financial results of any other health care provider with which the
22 provider has a pecuniary interest or contractual relationship,
23 including employment or other compensation-based relationship.

24 (6) A bonus, incentive payment, or compensation based on the
25 financial results of an integrated health care delivery system, group
26 practice, or other provider.

27 (7) State political contributions.

28 (c) (1) The board shall establish and enforce penalties for
29 violations of this section, consistent with the Administrative
30 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
31 Part 1 of Division 3 of Title 2).

32 (2) Penalty payments collected for violations of this section
33 shall be remitted to the CalCare Trust Fund for use in CalCare.

34 100658. (a) The board shall, in consultation with the
35 Department of General Services, the Department of Health Care
36 Services, and other relevant state agencies, negotiate prices to be
37 paid for pharmaceuticals, medical supplies, medical technology,
38 and medically necessary assistive equipment covered through
39 CalCare. Negotiations by the board shall be on behalf of the entire

1 CalCare program. A state agency shall cooperate to provide data
2 and other information to the board.

3 (b) The board shall, in consultation with the Department of
4 General Services, the Department of Health Care Services, the
5 CalCare Public Advisory Committee, patient advocacy
6 organizations, physicians, registered nurses, pharmacists, and other
7 health care professionals, establish a prescription drug formulary
8 system. To establish the prescription drug formulary system, the
9 board shall do all of the following:

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

11 (2) Consider the clinical efficacy of medications.

12 (3) Update the formulary frequently and allow health care
13 professionals, other clinicians, and members to petition the board
14 to add new pharmaceuticals or to remove ineffective or dangerous
15 medications from the formulary.

16 (4) Consult with patient advocacy organizations, physicians,
17 nurses, pharmacists, and other health care professionals to
18 determine the clinical efficacy and need for the inclusion of specific
19 medications in the formulary.

20 (c) The prescription drug formulary system shall not require a
21 prior authorization determination for coverage under CalCare and
22 shall not apply treatment limitations through the use of step therapy
23 protocols.

24 (d) (1) *The prescription drug formulary system shall include*
25 *coverage for prescription drugs in a manner in which there is no*
26 *cost sharing for CalCare enrollees.*

27 (2) *The board may consider cost sharing for providers that*
28 *prescribe drugs with a lower cost medically equivalent generic or*
29 *lower cost drug substitution.*

30 (3) *The prescription drug formulary system shall include*
31 *antiretroviral drugs that are medically necessary for the prevention*
32 *of HIV/AIDS, including preexposure prophylaxis as defined in*
33 *subdivision (b) of Section 4052.02 of the Business and Professions*
34 *Code and postexposure prophylaxis as defined in subdivision (b)*
35 *of Section 4052.03 of the Business and Professions Code, in a*
36 *manner in which there is no cost sharing for CalCare enrollees.*

37 ~~(d)~~

38 (e) The board shall promulgate regulations regarding the use of
39 off-formulary medications that allow for patient access.

CHAPTER 6. PROGRAM STANDARDS

Article 1. Standard of Care

100660. CalCare shall establish a single standard of safe, therapeutic, and effective care for all residents of the state by the following means:

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

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

(2) Relations between participating providers and members.

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

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

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

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

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

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

(D) Payment procedures and rates.

(E) Claims processing.

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

1 (3) Elimination of health care disparities.

2 (4) Nondiscrimination pursuant to Section 100631.

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

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

8 (7) Prevention-oriented care.

9 (c) The board shall establish requirements and standards, to the
10 extent authorized by federal law, by regulation, for replacing and
11 merging with CalCare health care items and services and ancillary
12 services currently provided by other programs, including Medicare,
13 the Affordable Care Act, and federally matched public health
14 programs.

15 (d) A participating provider shall furnish information as required
16 by the Department of Health Care Access and Information pursuant
17 to Sections 100617 and 100641, and to Division 107 (commencing
18 with Section 127000) of the Health and Safety Code, and permit
19 examination of that information by the board as reasonably required
20 for purposes of reviewing accessibility and utilization of health
21 care items and services, quality assurance, cost containment, the
22 making of payments, and statistical or other studies of the operation
23 of CalCare or for protection and promotion of public,
24 environmental, and occupational health.

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

30 (f) To develop requirements and standards and making other
31 policy determinations under this chapter, the board shall consult
32 with representatives of members, health care providers, health care
33 organizations, labor organizations representing health care
34 employees, and other interested parties.

35 (g) The board shall coordinate with the Office of Health Equity,
36 the Department of Health Care Access and Information, and the
37 Department of Managed Health Care to do both of the following:

38 (1) Monitor participating providers for, and establish procedures
39 related to, compliance with the requirements and standards
40 established under this section.

1 (2) Establish programs, including special projects under Section
2 100677, to ensure or manage CalCare member access to in-person
3 primary and preventive care, efficient and effective health care
4 items and services, and quality care.

5 100661. (a) (1) As part of a health care practitioner's duty to
6 advocate for medically appropriate health care for their patients
7 pursuant to Sections 510 and 2056 of the Business and Professions
8 Code, a participating provider has a duty to act in the exclusive
9 interest of the patient.

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

14 (b) Consistent with subdivision (a) and with Sections 510 and
15 2056 of the Business and Professions Code:

16 (1) An individual's treating physician, or other health care
17 professional who is authorized to diagnose the individual in
18 accordance with all applicable scope of practice and other license
19 requirements and is treating the individual, is responsible for the
20 determination of the medically necessary or appropriate care for
21 the individual.

22 (2) A participating provider or health care professional who
23 may be employed by a participating provider or otherwise receive
24 compensation or payment for health care items and services
25 furnished under CalCare from a participating provider or other
26 person participating in CalCare shall use reasonable care and
27 diligence in safeguarding an individual under the care of the
28 provider or professional and shall not impair an individual's
29 treating physician or other health care provider treating the
30 individual from advocating for medically necessary or appropriate
31 care under this section.

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

35 (1) Having a pecuniary interest or relationship, including an
36 interest or relationship disclosed under subdivision (d), that impairs
37 the provider's ability to provide medically necessary or appropriate
38 care.

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

1 (A) A patient's utilization of services.

2 (B) The financial results of another health care provider with
3 which the participating provider has a pecuniary interest or
4 contractual relationship, including employment or other
5 compensation-based relationship, or of a person that contracts with
6 or provides health care items or services, including pharmaceutical
7 products and medical devices or equipment, to the provider.

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

11 (3) Having a board member, executive, or administrator that
12 receives compensation from, owns stock or has other financial
13 investments in, or serves as a board member of an entity that
14 contracts with or provides health care items or services, including
15 pharmaceutical products and medical devices or equipment, to the
16 provider.

17 (d) To evaluate and review compliance with this section, a
18 participating provider shall report, at least annually, to the
19 Department of Health Care Access and Information all of the
20 following:

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

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

26 (3) A subcontract entered into that contains incentive plans that
27 involve general payments, including capitation payments or shared
28 risk agreements, that are not tied to specific medical decisions
29 involving specific members or groups of members with similar
30 medical conditions.

31 (4) Bonus or other incentive arrangements used in compensation
32 agreements with another health care provider or an entity that
33 contracts with or provides health care items or services, including
34 pharmaceutical products and medical devices or equipment, to the
35 provider.

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

1 (e) The board may adopt regulations as necessary to implement
2 and enforce this section and may adopt regulations to expand
3 reporting requirements under this section.

4 (f) For purposes of this section, “person” means an individual,
5 partnership, corporation, limited liability company, or other
6 organization, or any combination thereof, including a medical
7 group practice, independent practice association, preferred provider
8 organization, foundation, hospital medical staff and governing
9 body, or payer.

10 100662. (a) An individual’s treating physician, nurse, or other
11 health care professional, in implementing a patient’s medical or
12 nursing care plan and in accordance with their scope of practice
13 and licensure, may override health information technology or
14 clinical practice guidelines, including standards and guidelines
15 implemented by a participating provider through the use of health
16 information technology, including electronic health record
17 technology, clinical decision support technology, and computerized
18 order entry programs.

19 (b) An override described in subdivision (a) shall, in the
20 independent professional judgment of the treating physician, nurse,
21 or other health care professional, meet all of the following
22 requirements:

23 (1) The override is consistent with the treating physician’s,
24 nurse’s, or other health care professional’s determination of medical
25 necessity or appropriateness or nursing assessment.

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

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

28 29 Article 2. Health Equity 30

31 100665. (a) There is hereby established, within CalCare, the
32 Office of Health Equity. The Director of the Department of Health
33 Care Access and Information shall be the director of the office and
34 shall carry out all functions of that position, including enforcement.

35 (b) The office shall be responsible for coordination and
36 collaboration across the programs and activities of CalCare and
37 the California Health and Human Services Agency with respect
38 to ensuring health equity under CalCare and other health programs
39 of the California Health and Human Services Agency.

40 (c) The office shall do all of the following:

(1) Support the board through data collection and analysis of, and recommendations to address, all of the following:

(A) The disproportionate burden of disease and death by race, ethnicity, national origin, primary language use, immigration status, age, disability, sex, including gender identity and sexual orientation, geographic location, socioeconomic status, incarceration, housing status, and other population-based characteristics.

(B) Barriers to health, including barriers relating to income, education, housing, food insecurity, employment status, working conditions, and conditions related to the physical environment.

(C) Barriers to health care access, including lack of trust and awareness, lack of transportation, geography, hospital and service closures, lack of health care infrastructure and facilities, lack of health care professional staffing and recruitment, disparities in quality of care received, and disparities in utilization of care.

(D) Inequitable distribution of health care services, including health care professional shortage areas, medically underserved areas, medically underserved populations, and trends in hospital closures and service reductions.

(E) Discrimination in health care settings and the use of racially biased or other discriminatory practice guidelines, health care technologies, and algorithms.

(F) Increasing access to high-quality primary health care, particularly in medically underserved areas and for medically underserved ~~populations~~ *populations*.

(G) *Prevention-oriented care through the identification of social determinants of health and gaps in human services programs that address social determinants of health.*

(2) Ensure that analysis and data collected under this section are made publicly available and allow for the analysis of cross-sectional information on people's identities.

(3) Support the board through the development and coordination of programs and recommendations to enhance health equity in California, including programs and recommendations on all of the following:

(A) Improving the provision of culturally, linguistically, and structurally competent care.

(B) Increasing diversity in the health care workforce.

1 (C) Ensuring sufficient health care professionals and facilities
2 to meet the health care needs across the state.

3 (D) Ensuring equitable access and distribution of health care
4 professionals and facilities to meet the health care needs across
5 the state.

6 (E) Recruitment and retention of a health care workforce that
7 meets the cultural, linguistic, and other needs of Californians.

8 (F) Recruitment and retention of a health care workforce in rural
9 and medically underserved areas.

10 (4) Develop, coordinate, and provide recommendations on
11 programs that expand the number of primary health care providers
12 and practitioners, including primary care physicians, registered
13 nurses, and dentists, in the state.

14 (5) Develop, coordinate, and provide recommendations on
15 targeted programs and resources for federally qualified health
16 centers, rural health centers, community health centers, and other
17 community-based organizations that provide primary care in the
18 state.

19 (6) Conduct ongoing research and evaluation on health equity
20 and access to primary care in California.

21 (7) Support the board and the CalCare Public Advisory
22 Committee through data collection and analysis and
23 recommendations to develop, propose, and review special projects
24 under Section 100677.

25 (8) Adopt and promulgate regulations for the purpose of carrying
26 out this chapter.

27 (9) Establish advisory or technical committees, as necessary.

28 (d) For purposes of implementing this section, including hiring
29 staff and consultants, through the procurement authority and
30 processes of the department, facilitating and conducting meetings,
31 conducting research and analysis, and developing the required
32 reports, the office may enter into exclusive or nonexclusive
33 contracts on a bid or negotiated basis. Until January 1, 2026,
34 contracts entered into or amended pursuant to this chapter are
35 exempt from Chapter 6 (commencing with Section 14825) of Part
36 5.5 of Division 3 of Title 2, Part 2 (commencing with Section
37 10100) of Division 2 of the Public Contract Code, and the State
38 Administrative Manual, and are exempt from the review or
39 approval of any division of the Department of General Services.

1 Article 3. Consumer Protections

2
3 100667. (a) *It is the intent of the Legislature that all existing*
4 *consumer protections related to health care service plans,*
5 *including network adequacy, timely access, and language access,*
6 *apply to CalCare.*

7 (b) *It is the intent of the Legislature that all existing patient*
8 *rights and protections in the delivery and provision of health care*
9 *items and services apply to CalCare and participating providers*
10 *in CalCare.*

11 (c) *This title does not diminish or eliminate any protections*
12 *consumers have under existing state and federal law, including*
13 *health care spending targets and data collection required by the*
14 *Office of Health Care Affordability.*

15 (d) *For purposes of the Knox-Keene Health Care Service Plan*
16 *Act of 1975 (Chapter 2.2 (commencing with Section 1340) of*
17 *Division 2 of the Health and Safety Code), the CalCare program*
18 *is a health care service plan, including for purposes of the*
19 *Independent Medical Review System established in Article 5.55*
20 *(commencing with Section 1374.30) of Chapter 2.2 of Division 2*
21 *of the Health and Safety Code.*

22 (e) *This title does not diminish or eliminate any of the rights*
23 *and protections afforded to Californians by the Medicare and*
24 *Medicaid programs under state and federal law or the*
25 *Lanterman-Petris-Short Act (Part 1 (commencing with Section*
26 *5000) of Division 5 of the Welfare and Institutions Code).*

27
28 CHAPTER 7. FUNDING

29
30 Article 1. Federal Health Programs and Funding

31
32 100670. (a) (1) The board is authorized to and shall seek all
33 federal waivers and other federal approvals and arrangements and
34 submit state plan amendments as necessary to operate CalCare
35 consistent with this title.

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

1 (3) The board shall apply for federal waivers or federal approval
2 pursuant to paragraph (1) by January 1, 2026.

3 (b) (1) The board shall apply to the United States Secretary of
4 Health and Human Services or other appropriate federal official
5 for all waivers of requirements, and make other arrangements,
6 under Medicare, any federally matched public health program, the
7 Affordable Care Act, and any other federal programs or laws, as
8 appropriate, that are necessary to enable all CalCare members to
9 receive all benefits under CalCare through CalCare, to enable the
10 state to implement this title, and to allow the state to receive and
11 deposit all federal payments under those programs, including funds
12 that may be provided in lieu of premium tax credits, cost-sharing
13 subsidies, and small business tax credits, in the State Treasury to
14 the credit of the CalCare Trust Fund, created pursuant to Section
15 100675, and to use those funds for CalCare and other provisions
16 under this title.

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

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

29 (4) The board may take any additional actions necessary to
30 effectively implement CalCare to the maximum extent possible
31 as an independent single-payer program consistent with this title.
32 It is the intent of the Legislature to establish CalCare, to the fullest
33 extent possible, as an independent agency.

34 (c) The board may take actions consistent with this article to
35 enable CalCare to administer Medicare in California. CalCare shall
36 be a provider of supplemental insurance coverage and shall provide
37 premium assistance for drug coverage under Medicare Part D for
38 eligible members of CalCare.

39 (d) The board may waive or modify the applicability of any
40 provisions of this title relating to any federally matched public

1 health program or Medicare, as necessary, to implement any waiver
2 or arrangement under this section or to maximize the federal
3 benefits to CalCare under this section.

4 (e) The board may apply for coverage for, and enroll, any
5 eligible member under any federally matched public health program
6 or Medicare. Enrollment in a federally matched public health
7 program or Medicare shall not cause a member to lose a health
8 care item or service provided by CalCare or diminish any right the
9 member would otherwise have.

10 (f) (1) Notwithstanding any other law, the board, by regulation,
11 shall increase the income eligibility level, increase or eliminate
12 the resource test for eligibility, simplify any procedural or
13 documentation requirement for enrollment, and increase the
14 benefits for any federally matched public health program and for
15 any program in order to reduce or eliminate an individual's
16 coinsurance, cost-sharing, or premium obligations or increase an
17 individual's eligibility for any federal financial support related to
18 Medicare or the Affordable Care Act.

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

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

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

30 (C) Is in the interest of CalCare.

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

33 (g) To enable the board to apply for coverage for, and enroll,
34 any eligible member under any federally matched public health
35 program or Medicare, the board may require that every member
36 or applicant provide the information necessary to enable the board
37 to determine whether the applicant is eligible for a federally
38 matched public health program or for Medicare, or any program
39 or benefit under Medicare.

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

5 (i) The board shall provide premium assistance for all members
6 enrolling in a Medicare Part D drug coverage plan under Section
7 1860D of Title XVIII of the federal Social Security Act (42 U.S.C.
8 Sec. 1395w-101 et seq.), limited to the low-income benchmark
9 premium amount established by the federal Centers for Medicare
10 and Medicaid Services and any other amount the federal agency
11 establishes under its de minimis premium policy, except that those
12 payments made on behalf of members enrolled in a Medicare
13 Advantage plan may exceed the low-income benchmark premium
14 amount if determined to be cost effective to CalCare.

15 (j) If the board has reasonable grounds to believe that a member
16 may be eligible for an income-related subsidy under Section
17 1860D-14 of Title XVIII of the federal Social Security Act (42
18 U.S.C. Sec. 1395w-114), the member shall provide, and authorize
19 CalCare to obtain, any information or documentation required to
20 establish the member's eligibility for that subsidy. The board shall
21 attempt to obtain as much of the information and documentation
22 as possible from records that are available to it.

23 (k) The board shall make a reasonable effort to notify members
24 of their obligations under this section. After a reasonable effort
25 has been made to contact the member, the member shall be notified
26 in writing that the member has 60 days to provide the required
27 information. If the required information is not provided within the
28 60-day period, the member's coverage under CalCare may be
29 suspended until the issue is resolved. Information provided by a
30 member to the board for the purposes of this section shall not be
31 used for any other purpose.

32 (l) The board shall assume responsibility for all benefits and
33 services paid for by the federal government with those funds.

34
35 Article 2. CalCare Trust Fund
36

37 100675. (a) The CalCare Trust Fund is hereby created in the
38 State Treasury for the purposes of this title to be administered by
39 the CalCare Board. Notwithstanding Section 13340, all moneys
40 in the fund shall be continuously appropriated without regard to

1 fiscal year for the purposes of this title. Any moneys in the fund
2 that are unexpended or unencumbered at the end of a fiscal year
3 may be carried forward to the next succeeding fiscal year.

4 (b) Notwithstanding any other law, moneys deposited in the
5 fund shall not be loaned to, or borrowed by, any other special fund
6 or the General Fund, a county general fund or any other county
7 fund, or any other fund.

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

12 (d) The board or staff of the board shall not utilize any funds
13 intended for the administrative and operational expenses of the
14 board for staff retreats, promotional giveaways, excessive executive
15 compensation, or promotion of federal or state legislative or
16 regulatory modifications.

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

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

21 (1) All moneys obtained pursuant to legislation enacted as
22 proposed under Section 100680.

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

29 (3) The amounts paid by the State Department of Health Care
30 Services that are equivalent to those amounts that are paid on behalf
31 of residents of this state under Medicare, any federally matched
32 public health program, or the Affordable Care Act for health
33 benefits that are equivalent to health benefits covered under
34 CalCare.

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

39 (5) State moneys that would otherwise be appropriated to any
40 governmental agency, office, program, instrumentality, or

1 institution that provides health care items or services for services
2 and benefits covered under CalCare. Payments to the fund pursuant
3 to this section shall be in an amount equal to the money
4 appropriated for those purposes in the fiscal year beginning
5 immediately preceding the effective date of this title.

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

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

11 (i) (1) Before the delivery of the fiscal analysis required
12 pursuant to Section 100620:

13 (A) Moneys in the CalCare Trust Fund shall not be used for
14 startup and administrative costs to implement Section 100612.

15 (B) Moneys in the CalCare Trust Fund may be used to design
16 and commission the fiscal analysis required pursuant to Section
17 100620.

18 (2) After delivery of the fiscal analysis required pursuant to
19 Section 100620, moneys in the CalCare Trust Fund may be used
20 for startup and administrative costs to implement Section 100612.

21 100676. (a) The board annually shall prepare a budget for
22 CalCare that specifies a budget for all expenditures to be made for
23 covered health care items and services and shall establish
24 allocations for each of the budget components under subdivision
25 (b) that shall cover a three-year period.

26 (b) The CalCare budget shall consist of at least the following
27 components:

28 (1) An operating budget.

29 (2) A capital expenditures budget.

30 (3) A special projects budget.

31 (4) Program standards activities.

32 (5) Health professional education expenditures.

33 (6) Health care workforce recruitment and retention
34 expenditures.

35 (7) Administrative costs.

36 (8) Prevention and public health activities.

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

39 (1) The operating budget allows for participating providers to
40 meet the health care needs of the population.

1 (2) A fair allocation to the special projects budget to meet the
2 purposes described in subdivision (f) in a reasonable timeframe.

3 (3) A fair allocation for program standards activities.

4 (4) The health professional education expenditures component
5 is sufficient to meet the need for covered health care items and
6 services.

7 (d) The operating budget described in paragraph (1) of
8 subdivision (b) shall be used for payments to providers for health
9 care items and services furnished by participating providers under
10 CalCare.

11 (e) The capital expenditures budget described in paragraph (2)
12 of subdivision (b) shall be used for the construction or renovation
13 of health care facilities, excluding congregate or segregated
14 facilities for individuals with disabilities who receive long-term
15 services and supports under CalCare, and other capital
16 expenditures.

17 (f) The special projects budget described in paragraph (3) of
18 subdivision (b) shall be used for the payment to not-for-profit or
19 governmental entities pursuant to Section 100677.

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

24 (h) During the implementation period and for at least five years
25 following the date on which benefits first become available under
26 CalCare, up to 1 percent of the budget shall be allocated to
27 programs providing health care workforce education, recruitment,
28 and retention pursuant to Section 100686.

29 100677. (a) (1) The special projects budget described in
30 paragraph (3) of subdivision (b) of Section 100676 shall be used
31 for the payment to not-for-profit entities that are health facilities
32 pursuant to Chapter 2 (commencing with Section 1250) of Division
33 2 of the Health and Safety Code or governmental entities for the
34 construction or renovation of health care facilities, major equipment
35 purchases, staffing in a rural or medically underserved area, and
36 to address health disparities, including those based on race,
37 ethnicity, national origin, primary language use, age, disability,
38 sex, including gender identity and sexual orientation, geography,
39 and socioeconomic status.

1 (2) To mitigate the impact of the payments on the availability
2 and accessibility of health care services, the special projects budget
3 may be used to increase payment to providers in a rural or
4 medically underserved area.

5 (b) (1) An agency of the state, a city, a county, a city and
6 county, or another political subdivision of the state or a
7 not-for-profit entity that is a health facility pursuant to Chapter 2
8 (commencing with Section 1250) of Division 2 of the Health and
9 Safety Code may submit an application to the board for payment
10 from the special projects budget for a special project under this
11 section.

12 (2) The board shall develop criteria to evaluate applications for
13 payment from the special projects budget for special projects in
14 consultation with the CalCare Public Advisory Committee, the
15 Office of Health Equity, the California Health Facilities Financing
16 Authority, the Department of Health Care Access and Information,
17 the State Department of Health Care Services, the Department of
18 Managed Health Care, the State Department of Public Health, and
19 other relevant state agencies.

20 (3) The criteria to evaluate applications shall consider factors,
21 including if the special project will support a health facility in a
22 rural or medically underserved area, and if the special project will
23 address health disparities, including those based on race, ethnicity,
24 national origin, primary language use, age, disability, sex, including
25 gender identity and sexual orientation, geography, and
26 socioeconomic status.

27 (4) The criteria to evaluate applications shall also be used for
28 identification and monitoring of health facilities at risk of
29 understaffing in rural or medically underserved areas and of
30 populations experiencing health disparities.

31 (c) (1) The board may issue a request for applications for a
32 special project paid under subdivision (b) in consultation with the
33 Office of Health Equity.

34 (2) The CalCare Public Advisory Committee may develop and
35 recommend the board issue a request for applications for a special
36 project paid under subdivision (b).

37 (d) (1) An applicant for payment from the special projects
38 budget shall provide the board with financial, demographic, and
39 other information regarding the proposed health care service area
40 as determined by the board, in a format determined by the board,

1 to review an application to receive payment from the special
2 projects budget for a special project.

3 (2) An applicant for payment from the special projects budget
4 shall submit a plan to the board detailing the projected uses of the
5 proposed payment and strategies proposed to address a health
6 disparity or other qualifying need identified by the board.

7 (e) (1) The board shall determine the application process and
8 methodology for approval and distribution of payments from the
9 special projects budget.

10 (2) In reviewing a plan submitted by an applicant for payment
11 from the special projects budget under this section, the board shall
12 evaluate if there is a reasonable likelihood that it will address a
13 health disparity or other qualifying need identified by the board.

14 (3) The board shall provide public notice of an application
15 submitted under this section and post a copy of the applicant's
16 plan submitted under this section on its internet website.

17 (4) The board shall make its application process and
18 methodology publicly accessible on its internet website.

19 (f) (1) Within 90 days of receipt of a complete application for
20 a payment from the special projects budget for a special project,
21 the board shall provide a preliminary report to the applicant of the
22 board's initial review of the application and provide public notice
23 of the preliminary report.

24 (2) The board shall provide the public the opportunity to provide
25 written comment on a preliminary report of an application for
26 payment from the special projects budget for a special project.

27 (3) Before the board approves an application for payment from
28 the special projects budgets for a special project, the CalCare Public
29 Advisory Committee shall conduct at least one public hearing to
30 receive public input and comment on the application.

31 (4) The CalCare Public Advisory Committee shall provide a
32 recommendation to the board on the approval of an application
33 submitted to the board under this section.

34 (g) The board shall have the authority to determine service
35 provision requirements or other conditions in approving, and for
36 the duration of, special projects payments to health facilities or
37 that support health facilities. In making its determination, the board
38 shall consider the impact of any changes to the health facilities
39 service delivery on access to medical care.

Article 3. CalCare Financing

100680. (a) It is the intent of the Legislature to enact legislation that would develop a revenue plan, taking into consideration anticipated federal revenue available for CalCare. In developing the revenue plan, it is the intent of the Legislature to consult with appropriate officials and stakeholders.

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

CHAPTER 8. TRANSITION

100685. (a) An individual who meets all of the following requirements shall be eligible to enroll as a member of CalCare during the implementation period:

(1) The individual meets the eligibility standards established by the board under Section 100630.

(2) The individual is 55 years of age or older, 18 years of age or younger, or is currently enrolled in Medicare or Medicaid during the implementation period.

(b) The board shall ensure that all persons enrolled, or who seek to enroll, in a health plan during the implementation period are protected from disruptions in their care during the implementation period, including continuity of care with current health care teams.

(c) (1) During the implementation period, a carrier shall not end coverage for a CalCare member until the end of the implementation period except as expressly agreed upon under the terms of the plan.

(2) During the implementation period, a carrier shall not impose any exclusion or limitation of coverage on the basis of a person's disability, complex medical need, or chronic condition.

(3) This subdivision applies to a carrier except as otherwise prohibited by federal law.

(d) The board shall consult with the Advisory Commission on Long-Term Services and Supports, communities and advocacy organizations of persons living with disabilities, and other patient advocacy organizations to ensure that CalCare coverage during the implementation period takes into account the continuity of care

1 for persons with disabilities, complex medical needs, or chronic
2 conditions.

3 (e) In the case of inpatient hospital services and extended care
4 services during a continuous period of stay that began before the
5 end of the implementation period, and that had not ended as of the
6 end of the implementation date, the board shall provide for
7 continuation of benefits under CalCare until the end of the period
8 of stay.

9 (f) During the implementation period, the board shall establish
10 and maintain procedures that, to the greatest extent possible,
11 provide for the following:

12 (1) Automatic enrollment in CalCare of individuals who are
13 eligible to enroll in CalCare during the implementation period.

14 (2) Automatic enrollment in CalCare of individuals who will
15 become eligible to enroll in CalCare after the end of the
16 implementation period.

17 (g) (1) During the implementation period, the board shall
18 establish and maintain procedures for individuals who will become
19 eligible to enroll in CalCare after the end of the implementation
20 period to select a primary care provider under subdivision (e) of
21 Section 100630.

22 (2) During the implementation period, the board, to the greatest
23 extent possible, shall establish and maintain procedures for
24 individuals who are currently members of an integrated health care
25 delivery system to automatically select participating providers in
26 the individual's integrated health care delivery system care team
27 as their primary care provider upon enrollment in CalCare.

28 (h) A person who is eligible to receive CalCare benefits during
29 the implementation period may opt to maintain coverage outside
30 of CalCare, including private health care coverage or coverage
31 offered through the California Health Benefit Exchange, until the
32 end of the implementation period.

33 100686. (a) (1) The board shall provide funds from the
34 CalCare Trust Fund or funds otherwise appropriated for this
35 purpose to the Secretary of Labor and Workforce Development
36 for programs to address health care workforce education,
37 recruitment, and retention to meet health workforce demands under
38 CalCare, including programs implemented during the
39 implementation period.

(2) The board shall coordinate with the CalCare Public Advisory Committee, the Office of Health Equity, the Department of Health Care Access and Information, the Labor and Workforce Development Agency, the California Health and Human Services Agency, and health care professional licensing boards, including the Board of Registered Nursing, Medical Board of California, and Dental Board of California, to implement programs and policies related to health care workforce education, recruitment, and retention.

(b) The board shall establish a CalCare Health Workforce Working Group to provide input, including recommendations, to the board and Secretary of Labor and Workforce Development on issues related to health care workforce education, recruitment, and retention, including all of the following:

(1) Programs and measures to expand clinical education capacity at California community colleges providing associate degree programs in health professions, including through programs to ensure the fair and equitable distribution of clinical placement at clinical education sites among approved health professions education programs and through programs to recruit and retain clinical faculty.

(2) Data collection and analysis and recommendations on health workforce attrition from direct care positions, including on moral distress and moral injury, safe staffing, and gaps in active California health professions licensees and those working in direct care.

(3) Identification and prioritization of geographical areas or populations in the state with unmet primary care or other health care needs, including access and availability of family physicians, primary care clinics, and registered nurses.

(4) Programs and measures to retain health care workforces, including public loan repayment assistance programs, minimum safe staffing requirements, investments in personal protective equipment, and occupational safety and health programs.

(5) Programs and measures to support expansion of graduate medical education programs and assistance for medical residents.

(6) Career ladders into health professions for ancillary and allied health workers, including licensed vocational nurses, certified nursing assistants, medical technicians, behavioral health technicians, health navigators, and community health workers.

1 (7) Career technical education pathways toward an associate
2 degree at a California community college in a health professions
3 education program.

4 (8) Programs to address barriers to health professions, including
5 student debt levels, tuition assistance, childcare or other support,
6 and debt-free residency or mentorship programs.

7 (c) The board shall appoint the members of the CalCare Health
8 Workforce Working Group. Appointments shall be made by a
9 majority vote of the voting members of the board. When appointing
10 members to the working group, the board shall aim for broad
11 representation, including, at a minimum, all of the following:

12 (1) Representatives of health professions and other health care
13 workers, including specialties for primary care and behavioral
14 health, physicians, registered nurses, and ancillary services.

15 (2) Representatives of labor organizations representing health
16 care workers.

17 (3) Representatives of California community colleges, graduate
18 medical education and training programs, and nursing education
19 programs.

20 (4) Representatives of consumer and patient groups.

21 (5) Representatives of health care providers, including hospitals,
22 nonacute care providers, and medical groups.

23 (d) (1) Each appointed member of the CalCare Health
24 Workforce Working Group shall serve at the discretion of the
25 board and may be removed at any time by a majority vote of the
26 voting members of the board.

27 (2) Working group members shall not have access to
28 confidential, nonpublic information that is accessible to the board
29 and office. Instead, the working group shall only have access to
30 information that is publicly available. Neither the board nor the
31 office shall disclose any confidential, nonpublic information to
32 the working group members.

33 (3) Working group members shall receive reimbursement for
34 travel and other actual costs.

35 (e) The working group shall meet at least four times per year
36 in a place convenient to the public. All meetings of the advisory
37 commission shall be open to the public, pursuant to the
38 Bagley-Keene Open Meeting Act (Article 9 (commencing with
39 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2).

1 (f) The board shall consider input, including recommendations,
2 from the working group, along with public comments, in the
3 board's deliberation and decisionmaking.

4
5 CHAPTER 9. COLLECTIVE NEGOTIATION BY HEALTH CARE
6 PROVIDERS WITH CALCARE

7
8 Article 1. Definitions
9

10 100690. For purposes of this chapter, the following definitions
11 apply:

12 (a) (1) "Health care provider" means a person who is licensed,
13 certified, registered, or authorized to practice a health care
14 profession pursuant to Division 2 (commencing with Section 500)
15 of the Business and Professions Code and who is either of the
16 following:

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

19 (B) An owner, officer, shareholder, or proprietor of a health
20 care group practice that has elected to receive fee-for-service
21 payments from CalCare pursuant to subdivision (d) of Section
22 100650.

23 (2) A health care provider licensed, certified, registered, or
24 authorized to practice a health care profession pursuant to Division
25 2 (commencing with Section 500) of the Business and Professions
26 Code who practices as an employee of a health care provider is
27 not a health care provider for purposes of this chapter.

28 (b) "Health care provider's representative" means a third party
29 that is authorized by a health care provider to negotiate on their
30 behalf with CalCare over terms and conditions affecting those
31 health care providers.

32
33 Article 2. Authorized Collective Negotiation
34

35 100691. (a) Health care providers may meet and communicate
36 for the purpose of collectively negotiating with CalCare on any
37 matter relating to CalCare fee-for-service rates of payment for
38 health care items and services or procedures related to
39 fee-for-service payment under CalCare.

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

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

Article 3. Collective Negotiation Requirements

100692. (a) Collective negotiation under this chapter shall meet all of the following requirements:

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

(2) A health care provider may communicate with a health care provider's representative.

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

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

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

(c) This chapter does not affect or limit collective action or collective bargaining on the part of a health care provider with the health care provider's employer or any other lawful collective action or collective bargaining.

100693. (a) Before engaging in collective negotiations with CalCare on behalf of health care providers, a health care provider's representative shall file with the board, in the manner prescribed by the board, information identifying the representative, the representative's plan of operation, and the representative's procedures to ensure compliance with this chapter.

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

Article 4. Prohibited Collective Action

100694. (a) This chapter does not authorize competing health care providers to act in concert in response to a health care provider's representative's discussions or negotiations with CalCare, except as authorized by other law.

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

CHAPTER 10. OPERATIVE DATE

100695. (a) Notwithstanding any other law, this title, except for Chapter 1 (commencing with Section 100600), Chapter 2 (commencing with Section 100610), and Article 1 (commencing with Section 100670) of Chapter 7, shall not become operative until the date the Secretary of California Health and Human Services notifies the Secretary of the Senate and the Chief Clerk of the Assembly in writing that the secretary has determined that the CalCare Trust Fund has the revenues to fund the costs of implementing this title.

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

(c) The Secretary of California Health and Human Services shall make a notification pursuant to subdivision (a).

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

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Sections 100610, 100617, and 100619 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to

- 1 demonstrate the interest protected by this limitation and the need
- 2 for protecting that interest:
- 3 In order to protect private, confidential, and proprietary
- 4 information, it is necessary for that information to remain
- 5 confidential.

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