In his first year in office, Governor Gavin Newsom considered over 1,000 bills ranging from incorporating cultural competency into emergency plans to vaping in state parks and beaches to limiting rent inflation.

He also signed a number of bills related to health care. Below is a summary of these new laws, listed in numerical order by Assembly Bill (AB) or Senate Bill (SB). The effective date is January 1, 2020, unless otherwise noted.

**AB 45. Inmates: Medical Care: Fees**

California is one of 39 states that collect a copayment for inmate-initiated medical visits.¹ Until recently, city and county jails charged $3 while California state prisons charged $5 to visit a medical or dental provider. The Department of Corrections and Rehabilitation stopped collecting $5 from state prisoners as of March 1, 2019. Although the fee is waived for inmates who have no funds in their commissary accounts, a hold can be placed on the account until the fee is paid.

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**New California Health Care Laws**

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¹ In October, Governor Newsom signed 870 out of 1,042 bills passed by California’s legislature during its regular session. In this issue of ‘Policy At A Glance,’ we will provide a roundup of eight notable health care bills going into effect in 2020.
AB 45 prohibits city and county jails, as well as state prisons, from charging inmates for medical or dental visits. AB 45 also prohibits charging inmates for necessary medical supplies and durable medical equipment such as eyeglasses, hearing aids, and dentures. With the passage of AB 45, California becomes the first state to eliminate copayments in county jails.²

AB 204. Hospitals: Community Benefits Plan Reporting

Along with other nonprofit organizations, nonprofit hospitals in the United States are exempt from most federal, state, and local taxes.³ In exchange for these favorable tax treatments, hospitals must demonstrate that they serve the public interest through community benefit and address the unique health needs of that community. Under the Patient Protection and Affordable Care Act of 2010 (ACA), the federal government requires nonprofit hospitals to complete a Community Health Needs Assessment (CHNA) every three years as well as an implementation strategy to address the health needs identified in the CHNA. If hospitals fail to comply, they face a $50,000 federal excise tax.⁴

In California, nonprofit hospitals are exempt from state property and income taxes.⁵ California community benefit law requires hospitals to submit a Community Benefit Plan (CBP) every year to the Office of Statewide Health Planning and Development (OSHPD) and hospitals may report their CBP as a system. Community benefit includes charity care and the unreimbursed costs of providing care. Since community benefit laws do not define charity care and does not standardize how community benefit is calculated and reported, critics argue that the current process is unable to convey the true value of community benefits these hospitals provide.

AB 204 mandates a uniform reporting standard for CBP and requires hospitals to submit the economic value of their community benefit and how they plan to address the needs of their community. AB 204 also requires OSHPD to post the CBP on its website, including 1) the amount each hospital spends on community benefit, 2) the amount of community benefit due to charity care, unpaid costs of providing care, and community benefit programs and activities, and 3) a list of hospitals that failed to report their community benefits spending. Hospitals will be fined $5,000 for failing to adopt, update, or submit their CBP.

AB 290. Health Care Service Plans and Health Insurance: Third-Party Payments

Dialysis is an alternative to kidney transplantation and works by removing harmful wastes, extra salt, and water from the blood of individuals with End-Stage Renal Disease (ESRD).⁶ Of the two main types of
dialysis, hemodialysis (done at a facility) and peritoneal dialysis (can be done at home), 90 percent of dialysis patients receive hemodialysis.⁷

DaVita and Fresenius Medical Care control 77 percent of dialysis clinics in California.⁸ In 2019, University of California researchers found that commercial insurance plans pay four times more per hemodialysis treatment than public programs such as Medicare.⁹

According to news articles, DaVita and Fresenius donate to the American Kidney Fund (AKF), who in turn provides financial assistance for low-income dialysis patients to enroll in private insurance.¹⁰ Similar practices occur in substance abuse treatment facilities.⁵

Beginning January 1, 2020, AB 290 will cap reimbursement rates to providers where a third party with financial ties to the provider is paying a patient’s insurance premiums. AB 290 prohibits facilities from seeking additional reimbursement from patients. AB 290 also prohibits dialysis clinics from “steering, directing, or advising a patient regarding any specific coverage program option or health care service plan contract.”¹¹ On October 13, 2019, the day Governor Newsom signed AB 290, AKF announced that it would stop providing financial assistance to the 3,700 low-income Californians starting January 1, 2020.¹²

AB 567. Long-Term Care Insurance

The Baby Boomer generation is the largest generation in U.S. history. The oldest Baby Boomer started turning 65 in 2011 and 10,000 Boomers will turn 65 every day until 2030.¹³ According to the U.S. Department of Health and Human Services (HHS), almost 70 percent of those turning 65 today will need some type of long-term care.¹⁴

Long-Term Care (LTC) is “the assistance or supervision you many need when you are not able to do some of the basic ‘activities of daily living’ (ADLs) which are, generally, eating, continence, bathing, dressing or moving from a bed to a chair.”¹⁵ While both Medicare and Medicaid pay for LTC, Medicare only pays for a very limited duration and only after hospitalization or injury. Medicaid is the most common source of LTC funding, covering approximately 65 percent of nursing home residents in California.¹⁶ However, an individual has to “spend down” almost all of their assets before Medicaid can cover their LTC.¹⁷

AB 567 establishes the LTC Insurance Task Force to examine the feasibility of a sustainable, statewide LTC insurance program. The task force must recommend options for LTC insurance by July 1, 2021, and the Department of Insurance must produce an actuarial report based on these recommendations by July 1, 2022.

AB 744. Health Care Coverage: Telehealth

Telehealth is “the delivery and facilitation of health and health-related services including medical care, provider and patient education,
health information services, and self-care via telecommunications and digital communication technologies.”18

Starting January 1, 2021, AB 744 requires health plans to cover and reimburse diagnosis, consultation, and treatment delivered through telehealth at the same rate as services provided through in-person visits.

AB 824. Business: Preserving Access to Affordable Drugs

“Pay for Delay” is when branded drug companies offer a “patent settlement” to generic manufacturers to delay the entry of lower-cost alternatives into the market.19 Pay-for-delay deals are also known as “reverse payment agreements” and the terms of such settlements are a secret.20 Pay for delay historically involved cash payments but after the Supreme Court ruled that the Federal Trade Commission (FTC) has power to investigate the practice, the settlements are evolving into other arrangements, such as sharing knowledge or marketing each other’s drugs to physicians.20 Since generics can cost up to 90 percent less than that of brand name drugs, FTC estimates that pay for delay costs consumers and taxpayers $3.5 billion every year in higher drug costs.19,21

Currently, California prohibits anticompetitive activities and anyone damaged by this practice is allowed to sue to recover three times the damages, plus interest on actual damages.21 If generic drug makers receive anything of value from branded drug makers in return for limiting or foregoing the introduction of their generic products in the market, AB 824 will assume this to be anticompetitive and subject to civil penalties. With the passage of AB 824, California becomes the first state to ban pay-for-delay deals for pharmaceutical products.22

SB 24. Public Health: Public University Student Health Centers: Abortion by Medication Techniques

Beginning January 1, 2023, SB 24 requires student health centers at all 34 University of California (UC) and California State University (CSU) campuses to offer abortion pills to students. In order to implement SB 24, the California Commission on the Status of Women and Girls (CCSWG) will establish the “College Student Health Center Sexual and Reproductive Health Preparation Fund” that provides at least $10,290,000 by January 1, 2020. This fund will then be apportioned to each university to prepare its provision of abortion by medication, also known as a medical abortion.
Medical abortions do not involve surgery and women are usually given a combination of two pills, mifepristone and misoprostol. Mifepristone is taken at the provider’s office and misoprostol is taken at home a few days later. Medical abortion is not the same as taking the “morning-after pill,” as the latter prevents a pregnancy from occurring.

All UC and CSU student health centers are supported entirely by student health fees and the state of California does not provide any form of financial assistance. Therefore, universities will have to find other funding sources to continue the program after the preparation fund runs out. Currently, no student health center provides abortion services and students are referred to community providers to receive an abortion. Governor Brown vetoed a similar bill last year, citing that the bill was not necessary as abortion services are widely available off campus. With SB 24, California becomes the first state to offer medical abortions on campus.

**SB 78. Health**

An integral part of the Patient Protection and Affordable Care Act (ACA) of 2010 is the individual mandate. Under the mandate, individuals without health insurance coverage had to pay a “shared responsibility payment” when they filed their federal taxes. The reason behind this policy was to 1) encourage people to sign up for health insurance 2) to help decrease insurance premiums by encouraging healthy individuals to join and 3) to help fund the ACA subsidies through the tax penalty. Starting with the federal taxes filed in April 2020, the shared responsibility payment will no longer apply as a result of the Tax Cut and Jobs Act of 2017.

**SB 78 reinstates the individual mandate penalty in California effective January 1, 2020.**

SB 78 takes a three-pronged approach:

- Requires a “California resident and any spouse or dependent of the resident to have minimum essential coverage for each month, beginning on and after January 1, 2020”
- Allows exemptions for hardships and religious conscience reasons
- Imposes an individual “shared responsibility penalty” (also known as the “individual mandate penalty”) on individuals who fail to maintain a minimum essential health care coverage

SB 78 works in tandem with AB 414, which addresses the reporting of the individual mandate penalty in California. To learn more about SB 78, please refer to the September issue of the Policy At A Glance.
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