AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 1

ON HEALTH AND HUMAN SERVICES

ASSEMBLYMEMBER DR. JOAQUIN ARAMBULA, CHAIR

MONDAY, MARCH 13, 2023

2:30 PM, STATE CAPITOL, ROOM 127

This hearing may be viewed via its live stream on the Assembly's website at https://www.assembly.ca.gov/todaysevents.

We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub1@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

The public may provide public comment after all witnesses on all panels and issues have concluded, and after the conclusion of member questions. ***Toll-free: 877-692-8957, access code: 131 51 27***

ITEMS TO BE HEARD

NON-DISCUSSION ITEMS

LIST OF PANELISTS IN ORDER OF PRESENTATION

8860 DEPARTMENT OF FINANCE
4800 COVERED CALIFORNIA

ISSUE/PANEL 1: TRANSFER OF HEALTH CARE AFFORDABILITY RESERVE FUND BALANCE TO GENERAL FUND TRAILER BILL AND BUDGET SOLUTION

- **Matt Aguilera**, Principal Program Budget Analyst, Department of Finance (DOF)
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Diana Douglas**, Director of Policy & Advocacy, Health Access California
- **Luke Koushmaro**, Senior Fiscal and Policy Analyst, Legislative Analyst's Office (LAO)

4140 DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
8860 DEPARTMENT OF FINANCE

ISSUE 2: OVERVIEW OF DEPARTMENT BUDGET

- **Elizabeth Landsberg**, Director, Department of Health Care Access and Information (HCAI)
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 3: *OVERSIGHT*: HEALTH CARE AFFORDABILITY

- **Elizabeth Landsberg**, Director, HCAI
- **Beth Capell**, Advocate, Health Access California
- **Matt Legé**, Government Relations Advocate, SEIU California State Council
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 4: EDUCATION AND TRAINING COUNCIL BUDGET CHANGE PROPOSAL

- **Caryn Rizell**, Deputy Director, Health Workforce Development, HCAI
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 5: HEALTH CARE WORKFORCE DELAYS TRAILER BILL

- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 6: *OVERSIGHT*: HEALTH CARE WORKFORCE

- **Caryn Rizell**, Deputy Director, Health Workforce Development, HCAI
- **Garrett Chan**, PhD, RN, FAAN, President & CEO, HealthImpact, California Hospital Association
- **Matt Legé**, Government Relations Advocate, SEIU California State Council
- **Nataly Diaz**, Director of Health Center Operations, California Primary Care Association
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

4150 DEPARTMENT OF MANAGED HEALTH CARE
0530 CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

ISSUE 7: OVERVIEW OF DEPARTMENT OF MANAGED HEALTH CARE BUDGET

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE/PANEL 8: GENDER AFFIRMING CARE (SB 923) BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, Department of Managed Health Care (DMHC)
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 9: HEALTH CARE COVERAGE: ABORTION SERVICES: COST SHARING (SB 245) BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 10: HEALTH CARE SERVICE PLANS: DISCIPLINE: CIVIL PENALTIES (SB 858) BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 11: OFFICE OF FINANCIAL REVIEW WORKLOAD BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 12: OFFICE OF LEGAL SERVICES DOJ LEGAL FEES BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ISSUE 13: OFFICE OF TECHNOLOGY AND INNOVATION - INFORMATION SECURITY RESOURCES BUDGET CHANGE PROPOSAL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

ITEMS TO BE HEARD

8860 DEPARTMENT OF FINANCE
4800 COVERED CALIFORNIA

ISSUE 1: TRANSFER OF HEALTH CARE AFFORDABILITY RESERVE FUND BALANCE TO GENERAL FUND TRAILER BILL AND BUDGET SOLUTION

PANEL

- **Matt Aguilera**, Principal Program Budget Analyst, Department of Finance (DOF)
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Diana Douglas, Director of Policy & Advocacy, Health Access California**
- **Luke Koushmaro**, Senior Fiscal and Policy Analyst, Legislative Analyst's Office (LAO)

PROPOSAL

The administration has proposed this trailer bill to require the Controller to transfer $333,439,000 from the Health Care Affordability Reserve Fund to the General Fund, and to establish legislative intent to enact legislation that returns this funding from the General Fund to the Health Care Affordability Reserve Fund when federal subsidies expire, which is currently scheduled for the 2025–26 fiscal year. This proposal is intended to help address the current budget deficit.

BACKGROUND

Existing law establishes the Health Care Affordability Reserve Fund, and authorizes the Controller to use funds in the Health Care Affordability Reserve Fund for cash-flow loans to the General Fund. Existing law, upon the enactment of the Budget Act of 2021, and upon order of the Director of Finance, requires the Controller to transfer $333,439,000 from the General Fund to the Health Care Affordability Reserve Fund. Existing law requires, upon appropriation by the Legislature, that those funds be utilized for the purpose of health care affordability programs operated by the California Health Benefit Exchange.

Government Code Section 100520.5 states:
(a) The Health Care Affordability Reserve Fund is hereby created in the State Treasury.
(b) Notwithstanding any other law, the Controller may use the funds in the Health Care Affordability Reserve Fund for cash-flow loans to the General Fund as provided in Sections 16310 and 16381.

(c) Upon the enactment of the Budget Act of 2021, and upon order of the Director of Finance, the Controller shall transfer three hundred thirty-three million four hundred thirty-nine thousand dollars ($333,439,000) from the General Fund to the Health Care Affordability Reserve Fund.
(d) Upon appropriation by the Legislature, the Health Care Affordability Reserve Fund shall be utilized, in addition to any other appropriations made by the Legislature for the same purpose, for the purpose of health care affordability programs operated by the California Health Benefit Exchange.

LAO Analysis

The LAO analyzed this proposal, and included the following "Issues for Consideration:"

> ***"Proposal Seems Reasonable, but Might Not Align With Legislative Priorities***. Given the state's budget condition in 2023-24 and through the multiyear, we find that this proposal seems like a reasonable approach to helping resolve the budget shortfall without reducing existing levels of affordability assistance for Covered California consumers. However, we note that the 2022-23 budget package included provisions to use the balance in the HCARF to provide additional financial assistance to Covered California consumers in the event the enhanced federal premium subsidies were extended beyond 2022. As such, the proposal does not appear to be consistent with past priorities of the Legislature. If, in contrast to the Governor, the Legislature chooses to maintain funding for the California Premium Subsidy Program, the state's budget shortfall would increase and necessitate additional budget solutions in other areas of the budget to accommodate it."

The full LAO analysis can be found on the Subcommittee's website with this agenda, and also here: https://lao.ca.gov/Publications/Report/4681

STAFF COMMENTS/QUESTIONS

The Subcommittee requests DOF present this proposal (noting that Covered California is also available to respond to questions) and respond to the following:

1. Is the administration aware of the fact that it was clear legislative intent to use the individual mandate penalty revenue to reduce the cost of health care through Covered California?

2. For what reasons is the administration proposing to do this through trailer bill (i.e., creating permanent statute) as compared to provisional language?

3. Is this intended to be a loan? If yes, for what reasons does the proposal not call it a "loan" and include the standard language usually included for loans to the General Fund?

4. How much individual mandate penalty revenue is collected annually?

5. Has revenue in the fund in prior years not been expended, and if so, what happened to those funds?

6. How much revenue has been collected from individual mandate penalties that has not been used to reduce the cost of health care for Californians covered through Covered California?

7. What's the justification for not reducing the cost of health care at the start of a recession, when there is new discretionary spending in the Governor's Budget and very large reserves?

The Subcommittee requests Health Access to provide their perspective on this proposal.

Staff Recommendation: Subcommittee staff recommends holding this issue open to allow for more discussion and consideration, and also recommends urging the administration to consider withdrawing this proposal in order to use this funding to reduce the cost of health care for low-to-middle-income Californians.

4140 DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
8860 DEPARTMENT OF FINANCE

ISSUE 2: OVERVIEW OF DEPARTMENT BUDGET

PANEL

- **Elizabeth Landsberg**, Director, Department of Health Care Access and Information (HCAI)
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

The January Budget proposes $338.4 million ($185.9 million General Fund) for the Department of Health care Access and Information (HCAI), which is a $1.2 billion reduction from 2022-23. This reduction is almost entirely General Fund and reflects the health care workforce one-time investment of approximately the same amount included in the 2022 Budget Act. It also reflects a one-time $100 million expenditure in 2022 for CalRx biosimilar insulin. The budget proposes an increase in HCAI staffing of 73 (11.6 percent) positions. Please see the chart below for additional detail on the proposed budget for HCAI. Many of these positions were approved and funded in 2021 as part of the reorganization of the then-Office of Statewide Health Planning and Development (OSHPD) into the new department (HCAI).

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
3831	Health Care Quality and Affordability	-	52.0	100.0	$-	$128,533	$13,219
3835	Health Care Workforce	46.6	71.2	73.2	180,430	1,223,375	199,094
3840	Facilities Development	210.5	222.6	228.6	49,062	85,741	68,111
3845	Cal-Mortgage Loan Insurance	12.3	17.0	16.0	12,733	4,790	4,942
3855	Health Care Information and Quality Analysis	75.6	93.8	96.8	32,530	41,629	20,889
3860	Administration	106.0	172.5	187.5	15,404	39,201	32,116
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**451.0**	**629.1**	**702.1**	**$290,159**	**$1,523,269**	**$338,371**
FUNDING					**2021-22***	**2022-23***	**2023-24***
0001	General Fund				$127,767	$1,299,266	$185,901
0121	Hospital Building Fund				58,162	74,661	76,866
0143	California Health Data and Planning Fund				37,803	43,408	42,666
0181	Registered Nurse Education Fund				2,115	2,170	2,170
0518	Health Facility Construction Loan Insurance Fund				13,629	5,446	5,448
0829	Health Professions Education Fund				3,764	3,110	3,106
0890	Federal Trust Fund				13,960	2,977	3,000
0995	Reimbursements				4,132	8,580	7,940
3064	Mental Health Practitioner Education Fund				764	762	762
3068	Vocational Nurse Education Fund				198	235	235
3085	Mental Health Services Fund				10,735	14,993	2,605
3391	Small and Rural Hospital Relief Fund				-	2,442	2,171
3394	California Electronic Cigarette Excise Tax Fund, Health Professions Career Opportunity Program				-	1,221	1,085
8034	Medically Underserved Account for Physicians, Health Professions Education Fund				1,712	4,416	4,416
8507	Home & Community-Based Services American Rescue Plan Fund				15,418	59,582	-
TOTALS, EXPENDITURES, ALL FUNDS					**$290,159**	**$1,523,269**	**$338,371**

BACKGROUND

The following information about HCAI can be found on the department's website: https://hcai.ca.gov/

HCAI's mission is to expand equitable access to quality, affordable health care for all Californians through resilient facilities, actionable information, and the health workforce each community needs. Major program areas include:

- ***Cal-Mortgage Loan Insurance***. Administers the California Health Facility Construction Loan Insurance Program and provides credit enhancement for eligible nonprofit healthcare facilities when they borrow money for capital needs.

- ***Facilities Development***. Regulates the design and construction of healthcare facilities to ensure they are safe and capable of providing services to the public.

- ***Health Workforce Development***. Collects, analyzes, and publishes data about California's healthcare workforce and health professional training, identifies areas of the state in which there are shortages of health professionals and service

capacity, and coordinates with other state departments in addressing the unique medical care issues facing California's rural areas.

- ***Information Services***. Integrates and centralizes enterprise data operations with healthcare analytics, using common technology infrastructure to improve data accessibility and usage to better serve all HCAI clients and stakeholders. HCAI produces datasets and data products from a variety of sources, including reports submitted to HCAI by over 8,700 licensed healthcare facilities as well as facility construction and healthcare workforce data managed in the administration of HCAI programs.

- ***Office of Health Care Affordability***. Established in 2022, the Office of Health Care Affordability (OHCA) analyzes California's health care market for cost trends and drivers of spending, enforces health care cost targets, and conducts cost and market impact reviews of proposed health care consolidations. A new Health Care Affordability Board will advise on key activities and approve specific aspects of OHCA's work, with input from an Advisory Committee and the public. To prevent unintended consequences associated with the cost targets, OHCA will measure and publicly report on quality, equity, adoption of alternative payment models, investment in primary care and behavioral health, and workforce stability.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests HCAI provided an overview of the proposed budget for the department as well as an update on the transition from OSHPD to HCAI.

Staff Recommendation: This is an oversight issue and therefore no Subcommittee action is needed at this time.

ISSUE 3: OVERSIGHT: HEALTH CARE AFFORDABILITY

PANEL

- **Elizabeth Landsberg**, Director, HCAI
- **Beth Capell**, Advocate, Health Access California
- **Matt Legé**, Government Relations Advocate, SEIU California State Council
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

OVERSIGHT ISSUE

The state has made significant budget investments, and adopted significant policy initiatives, in recent years in the area of health care affordability. This issue is for the purpose of looking at the initial implementation phases of the largest health care affordability projects at HCAI. The administration provided the following background information on HCAI's affordability programs:

Office of Health Care Affordability (OHCA)
In 2022, the California Health Care Quality and Affordability Act (SB 184, Chapter 47, Statutes of 2022) established the Office of Health Care Affordability (OHCA) within HCAI. Recognizing that health care affordability has reached a crisis point as health care costs continue to grow, OHCA's enabling statute emphasizes that it is in the public interest that all Californians receive healthcare that is accessible, affordable, equitable, high-quality, and universal.

OHCA has three primary responsibilities: managing cost growth targets, monitoring system performance, and assessing market consolidation. OHCA will collect, analyze, and publicly report data on total health care expenditures, and enforce cost growth targets set by a new Health Care Affordability Board. To ensure a balanced approach to managing costs, OHCA will monitor system performance by measuring quality, equity, adoption of alternative payment models, investment in primary care and behavioral health, and workforce stability. Through cost and market impact reviews, OHCA will analyze transactions that are likely to significantly impact market competition, the state's ability to meet cost targets, or affordability for consumers and purchasers. Based on results of the review, OHCA will then coordinate with other state agencies to address consolidation as appropriate. More information about OHCA can be found here:

Get the Facts About the Office of Health Care Affordability - HCAI

Healthcare Payments Database

AB 80 (Chapter 12, Statutes of 2020) provides HCAI the authority to establish the Health Care Payments Data (HPD) Program, often referred to as an All Payer Claims Database or APCD. This enabling legislation expands the mandate provided by AB 1810 (Chapter 34, Statutes of 2018), which included a one-time appropriation for HCAI to develop and administer the program and required HCAI to convene a Review Committee of stakeholders and experts to advise the department on the establishment, implementation, sustainability, and ongoing administration of the HPD Program. The Review Committee's recommendations were included in a report submitted to the California Legislature on March 9, 2020. The report can be accessed here: https://hcai.ca.gov/wp-content/uploads/2020/12/HPD-Legislative-Report-20200306.pdf

The information from the HPD System is intended to support greater health care cost transparency and will be used to inform policy decisions regarding the provision of quality health care, and to reduce health care costs and disparities. It is also intended for the information to be used to develop innovative approaches, services, and programs that may have the potential to deliver health care that is both cost effective and responsive to the needs of all Californians.

CalRx

HCAI received one-time $100 million General Fund, available until FY 2025-26, for the CalRx Biosimilar Insulin initiative. Through a contract partnership, the State is investing $50 million toward the development of low-cost interchangeable biosimilar insulin products and an additional $50 million toward a California-based insulin manufacturing facility.

Hospital Fair Billing Program

In 2021, the Health Care Debt and Fair Billing Program was created by AB 1020 (Friedman, Chapter 473, Statutes of 2021) and gave authority to the Department of Health Care Access and Information (HCAI) to assume enforcement of the Hospital Fair Pricing Act from the California Department of Public Health (CDPH) beginning January 1, 2024. This will require the department to impose administrative penalties on hospitals for violation of the Hospital Fair Pricing Act.

Beginning January 1, 2024, the Hospital Fair Billing Program within HCAI will implement a consumer-facing program to receive and investigate complaints of improper application of discount payment and charity care policies by hospitals. HCAI is required to promulgate regulations to establish criteria to be considered in determining the amount of the penalty as well as establishing an appeals process.

The law also creates new requirements that prohibit hospitals from selling patient debt unless specified conditions are met, including that the hospital has found the patient ineligible for financial assistance, or the patient has not responded to attempts to bill or offer financial assistance for 180 days. It also extends adverse credit reporting and

commencement of civil action from 150 to 180 days after initial billing and requires debt collectors to certify that the patient has been screened for public programs and financial assistance before filing a lawsuit. The law raises the income level for financial assistance from 350 percent of federal poverty level (FPL) to 400 percent. Additionally, the law requires hospitals to submit to HCAI the hospital's debt collection policy, in addition to their existing charity care and discount payment policy.

HCAI is required to review hospital policies for compliance January 1, 2023. The debt collection policy, along with discount and charity care policies, will be made available on both HCAI and hospital websites. The policies will be updated biennially or whenever there are any significant changes made.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that HCAI provide an overview of, and implementation updates on, its health care affordability programs and initiatives, and respond to any questions raised in the hearing.

The Subcommittee requests the stakeholders on the panel to provide their perspectives on implementation challenges and remaining gaps in the state's efforts to reduce and control costs.

Staff Recommendation: This is an oversight issue and therefore no action is recommended at this point in time.

ISSUE 4: EDUCATION AND TRAINING COUNCIL BUDGET CHANGE PROPOSAL

PANEL

- **Caryn Rizell**, Deputy Director, Health Workforce Development, HCAI
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

HCAI requests 2.0 permanent positions in Fiscal Year (FY) 2023-24 and ongoing to administer and support the Health Workforce Education and Training Council (Council).

BACKGROUND

The administration provided the following background information:

In 2021 the Governor signed AB 133 (2021 health budget trailer bill) recasting the Office of Statewide Health Planning and Development to become HCAI. HCAI is strengthening its health workforce data assets, building a more robust health workforce data system, and analyzing that data to inform policy recommendations to help support, grow, and diversify the state's health workforce. AB 133 also established the Council to bring a strategic, statewide approach to developing health workforce policy recommendations. The Council is comprised of 18 industry experts, private partners, and government representatives who are responsible for driving health policy changes to improve access to quality and culturally concordant care for all Californians.

The 2022 Budget Act included the Health Workforce Programs and Central Services Resources budget change proposal (BCP). This BCP requested permanent positions to support the significant increase in volume and complexity of health workforce programs supported by HCAI, including two permanent positions to support the Council. Funding for these positions was dependent on the Council appropriation in the Workforce for a Healthy California for All proposal which was not included in the final budget act. Additionally, after the first six months of Council activity, HCAI has recognized that the volume of work associated with the Council requires four permanent positions and is therefore requesting two additional permanent positions.

The Council met for the first time in March 2022 and voted to establish an initial set of priority topic areas, which include:

- Behavioral Health Workforce
- Nursing Workforce
- Graduate Medical Education
- Allied Health Workforce
- Oral Health Workforce
- Health Workforce Data
- Health Career Pathways

HCAI is requesting the resources in this proposal to support all of the priority areas set by the Council and the considerable logistics and coordination work of the Council's public meetings.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests HCAI present this proposal and respond to the following:

1. Please explain the reasons that the BCP states that HCAI needs four permanent positions to support the work of the Council, yet this request is only for two positions.

2. What is the full cost of the two positions and what resources will be covering these costs?

3. Is HCAI planning to use Children and Youth Behavioral Health Initiative funding, and if so, please justify this given that the Council's work covers both children and adults.

Staff Recommendation: Subcommittee staff recommends holding this item open to allow for more discussion and clarification of the resources being requested.

ISSUE 5: HEALTH CARE WORKFORCE DELAYS TRAILER BILL

PANEL

- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

This proposed trailer bill language implements the Governor's Budget HCAI workforce grant delays, in response to declining state revenues. Specifically, $68 million General Fund in CY and $329.4 million General Fund in BY (already reflected in the budget bill) would be expended in BY +1 (2024-25) and BY+2 (2025-26) as shown in the table below. This proposal reverts the $68 million in CY spending, and adds legislative intent language indicating that $198.7 million will be appropriated for this purpose in both budget acts for 2024-25 and 2025-26. These programs will remain fully funded with the 2022 budget agreement in total, but the funds will go out later than originally planned. Department of Finance (DOF) is carrying these repayments in their long-term forecast for budget planning.

DOF states that this proposal helps address the General Fund revenue shortfall by $397.4 million from these CY and BY delays. These funds would be repaid in the out-years, according to the administration. The following chart details the specific program delays and repayments:

HCAI WORKFORCE DELAYS AND REPAYMENTS	2022-23	2023-24	2024-25	2025-26
Nursing Initiative	-15	-55	35	35
Community Health Workers	0	-130	65	65
Social Work Initiative	-3.5	-48.4	25.95	25.95
BH Workforce: Addiction Psych/Medicine Fellowships	-23.5	-25	24.25	24.25
BH Workforce: Univ/College Grants for BH Professionals	-26	-26	26	26
BH Workforce: Expand MSW Slots at Public Univ/College	0	-30	15	15
Song-Brown Nurses	0	-15	7.5	7.5
Total[1]	**-68**	**-329.4**	**198.7**	**198.7**

[1]/Negative values reflect delays and positive values reflect repayments.

DOF explains that delays in CY were taken from areas that the funds had not already gone out or programs were not substantially in flight, while delays in BY were taken from areas with relatively large investments, since these relatively larger investments provided substantial savings opportunities. The following chart compares last year's budget appropriations with this year's proposed budget:

2023-2024 Governor's Budget HCAI Workforce Delays in Millions									
HEALTH CARE WORKFORCE INVESTMENTS (HCAI)	2022-23	Revised 2022-23	2023-24	Revised 2023-24	2024-25	Revised 2024-25	2025-26	Revised 2025-26	Total
Nursing Initiative	25	10	55	0	140	175	0	35	220
Community Health Workers	20	20	130	0	131.4	196.4	0	65	281
Social Work Initiative	7.5	4	48.4	0	70.1	96.05	0	25.95	126
BH Workforce: Addiction Psych/Medicine	25	1.5	25	0	0	24.25	0	24.25	50
BH Workforce: Univ/College Grants for BH Professionals	26	0	26	0	0	26	0	26	52
BH Workforce: Expand MSW Slots at Public Univ/College	30	30	30	0	0	15	0	15	60
BH Workforce: Psychiatry Graduate Medical Education	5	5	5	5	0	0	0	0	10
BH Workforce: Psychiatry Local BH Program	7	7	7	7	0	0	0	0	14
BH Workforce: Psychiatry at DSH	7	7	7	7					14
BH Workforce: Golden State Social Opportunities Program	10	10	0	0	0	0	0	0	10
Song-Brown: Nurse Workforce	20	20	15	0	15	22.5	0	7.5	50
Song-Brown : Nurse Midwives	1	1	0	0	0	0	0	0	1
Song-Brown: Primary Care Residencies	10	10	10	10	10	10	0	0	30
Song-Brown: FNP/PA Fellowships	5	5	0	0	0	0	0	0	5
Primary Care Workforce: Health IT Workforce	15	15	0	0	0	0	0	0	15
PH Workforce: Waive PH Nurse Cert Fees	3.33	3.33	3.33	3.33	3.33	3.33	0	0	10
Clinical Infrastructure: Reproductive Health	20	20	0	0	0	0	0	0	20
California Reproductive Health Service Corps	20	20	0	0	0	0	0	0	20
Total	**256.83**	**188.83**	**361.73**	**32.33**	**369.83**	**568.53**	**0**	**198.7**	**988.4**

BACKGROUND

The following background was provided by the LAO:

State Recently Enacted Multiyear Package of Health Workforce Initiatives. In recent years, ongoing state spending on health workforce development has been in the tens of millions of dollars annually at HCAI and focused primarily on grants to primary care postgraduate training programs. Notably expanding upon these past efforts, the 2022-23 budget enacted a $1.5 billion package over four years supporting various workforce initiatives focused on health and home care, behavioral health care, primary care, public health, and reproductive health care. HCAI was tasked with implementing most of the initiatives. Other affected departments included the California Department of Public Health (CDPH), EDD, and the California Community Colleges, among others. Figure 1 summarizes this package.

Figure 1

Last Year's Health Workforce Package Spanned Several Departments

General Fund Adopted in 2022-23 Budget Package (In Millions)

	2022-23	2023-24	2024-25	2025-26	Totals
Health Departments					
Health Care Access and Information	$259	$374	$370	—	$1,003
Public Health	31	28	28	$11	98
Health Care Services	12	12	—	—	24
Other Departments					
California Community Colleges[a]	$130	—	—	—	$130
Employment Development Department	70	$20	$20	—	110
California Workforce Development Board	45	—	—	—	45
California State University	10	—	—	—	10
Totals	**$557**	**$434**	**$418**	**$11**	**$1,420**

[a]Reflects Proposition 98 General Fund.

Note: Excludes $65 million in combined Opioid Settlement Fund and Mental Health Services Fund in 2022-23 supporting behavioral health workforce initiatives at the Department of Rehabilitation, the Department of Health Care Services, and the Department of Health Care Access and Information.

LAO Analysis

The LAO analyzed this proposal, and their full analysis can be found on the Subcommittee's website with this agenda, and also here: https://lao.ca.gov/Publications/Report/4691

In general, the LAO finds that delaying or reducing multiyear, limited-term initiatives, including those related to health workforce, is a reasonable approach to addressing the budget deficit, pointing out that it does not directly impact ongoing services and would cause relatively limited disruption to program operations. The LAO makes the following recommendations:

> "***Consider Health Workforce Budget Solutions, but Weigh Alternative Approaches Against Governor's Proposals***. Given the state's existing budget shortfall, delaying and reducing recent temporary augmentations warrants consideration. To this end, we recommend the Legislature consider adopting health workforce budget solutions and weigh different approaches to the Governor's proposal. For example, the Legislature might consider a different mix of workforce initiatives to target for reduction because of its concerns with the level of program disruption that would occur under the administration's proposal. The Legislature also may wish to consider scaling back the 2022-23 health workforce package, such as by converting some initiatives to smaller-scale pilots to test promising, but untested, workforce strategies. Overall, the Legislature likely will want to focus on preserving initiatives that have a good likelihood of addressing

urgent state health workforce issues and can be implemented within the budget year."

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DOF present this proposal and respond to the following:

1. Please describe in more detail the administration's reasoning behind choosing the specific workforce programs that were chosen for delayed funding versus those that were not.

2. What will happen to this funding and these programs should it turn out that California is in a protracted, multi-year recession?

The Subcommittee requests that LAO summarize their analysis of this proposal, and respond to the following:

1. Do you find the administration's plans to reinstate this funding in 2024-25 and 2025-26 to be realistic? In other words, do you project that the state will have sufficient revenue in just two years to restore this funding?

2. Given your recommendation that the Legislature consider a different mix of workforce initiatives to target for reduction, do you have specific recommendations in this regard?

Staff Recommendation: Subcommittee staff recommends holding this issue open to allow for additional time for discussion, consideration, and potential modifications.

ISSUE 6: OVERSIGHT: HEALTH CARE WORKFORCE

PANEL

- **Caryn Rizell**, Deputy Director, Health Workforce Development, HCAI
- **Garrett Chan**, PhD, RN, FAAN, President & CEO, HealthImpact, California Hospital Association
- **Matt Legé**, Government Relations Advocate, SEIU California State Council
- **Nataly Diaz**, Director of Health Center Operations, California Primary Care Association
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

OVERSIGHT ISSUE

The LAO provided the following background information on California's health workforce:

California Has Sizable Health Workforce. In 2021, around 2 million Californians worked as physicians, nurses, health care technicians, home health workers, behavioral health counselors, epidemiologists, and many other related health occupations. Based on data from the Employment Development Department (EDD), we estimate health occupations comprised 13 percent of the state's overall workforce in 2021.

Health Workforce Education, Training, and Development Is Supported From Many Sources. Both public and private institutions educate, train, and develop California's health workforce. The state departments that play a key role in health workforce development include the Department of Health Care Access and Information (HCAI), the state's workforce development departments, and the state's higher education segments, among others. Though estimates of total spending across all fund sources in California are not readily available, a likely substantial portion of health workforce education, training, and development is supported by nonstate sources at both public and private programs. For example, the University of California's medical schools rely on a mix of state support, student tuition and fee revenue, and faculty clinical revenue to support their operations.

Three Key Issues Regarding California's Health Workforce. In recent years, researchers and stakeholders have identified a number of issues regarding the state's health workforce. Below, we describe three key issues.

- ***Inadequate Statewide Supply for Certain Occupations***. Past research suggests the supply of workers in some health occupations may not keep pace with demand for their services in future years, whereas supply and demand for other health

occupations may be more balanced. For example, past studies have projected statewide shortfalls of primary care and behavioral health providers over the next several years in California. By contrast, recent research estimates an existing shortfall of nurses in California, but projects that statewide supply will align with demand over time due to anticipated increases in higher education nursing enrollments. For some health occupations, limited data make it difficult to fully quantify supply and demand. For example, the number of graduates with public health degrees has grown considerably over the last few decades, but we are not aware of research that fully quantifies how this trend will impact future supply and demand for public health employees in California.

- ***Regional Disparities***. The supply of providers relative to population varies considerably across the state. For example, the relatively wealthy coastal regions (such as the Bay Area) tend to have higher numbers of providers per population relative to less wealthy inland regions (such as the Central Valley and the Inland Empire). The federal government has designated hundreds of areas in California (for the most part, small subdivisions of counties) as having shortfalls of primary care, mental health, and dental providers. The state also has designated 38 out of 72 areas in California as having high or medium shortfalls of nurses.

- ***Disparate Representation in Certain Occupations***. The composition of many health occupations does not match the demographics of the state. For example, relative to their share of California's population, Latinos are underrepresented among physicians, nurses, and many other providers, but overrepresented among certain health support occupations.

Recent COVID-19 Pandemic Created New Workforce Issues. During the initial months of the pandemic, overall employment in the health care industry fell, though the decline was less severe than it was for overall employment in the state. Of those health care workers that remained employed during this period, many experienced furloughs and reduced hours. At the same time, many hospitals faced worker shortages during periods of surging COVID-19 cases. The recent pandemic experience also may have caused longer-term impacts on the state's health workforce. For example, many health stakeholders nationally and in California report employee "burnout" from the stresses of working during the pandemic. Experts are still studying the extent and magnitude of these longer-term impacts.

As described in the previous issue, the 2022 Budget Act includes an unprecedented investment in health care workforce with over $1.4 billion. The 2023 Governor's Budget proposes to delay some of this funding.

HCAI Health Workforce Research Data Center

As part of the recasting/reorganization of the former-OSHPD into the new HCAI, the Health Workforce Research Data Center was established to be the state's central source of health care workforce and education data. HCAI is responsible for collecting, analyzing, and distributing information on the educational and employment trends for health care occupations and distribution in the state. The statute requires HCAI to produce an annual report to the legislature that:

1. Identifies education and employment trends in the health care professions.
2. Reports the current supply and demand for health care workers in California and gaps in the educational pipeline producing workers in specific occupations and geographic areas.
3. Recommends state policy to address issues of health workforce shortage and distribution.
4. Describes the health care workforce program outcomes and effectiveness.

With the establishment of the Center in 2021 (Assembly Bill 133, Committee on Budget, 2021), HCAI began collecting the data necessary to provide comprehensive, timely, and accessible workforce information to ensure that state policies are as informed and effective as possible. While new data collection efforts are in progress, HCAI released its first Report which builds the baseline for health professions data by summarizing the available data collected. As HCAI collects more data, reports will include more robust state policy recommendations and analyses of program outcomes and effectiveness.

This report includes the following “Key Findings:”

<u>Medicine</u>

- The physician workforce is maldistributed. The San Joaquin Valley, Inland Empire, and Northern and Sierra regions have disproportionately small shares of the state's physicians.

- Licensure data suggests an increase in exits from the workforce in 2021 that coincides with a decrease of new licenses issued, particularly with physicians.

- Approximately 35 percent of physicians are 60 years old or more. Physicians, NPs, and PAs in the Northern and Sierra region are older than in the rest of the state.

- Despite recent improvement, Hispanic/Latino populations are still significantly underrepresented in medicine. With approximately 130,000 total physicians in California, the state is 37,000 Hispanic/Latino physicians short of parity with the population.

- Black populations are well represented amongst recently licensed physicians but are still underrepresented amongst all physicians.

- Recent Nurse Practitioner licensees are less representative of Hispanic/Latino populations.

- Relative to the population, the existing nursing workforce is well distributed throughout the state. Additional research is necessary to determine if the existing workforce is sufficient.

- Licensure data suggests an increase in exits from the nursing workforce since 2020 that coincides with a decrease of new licenses issued. In 2020, the number of LVNs exiting the workforce surpassed the number of new licenses.

- Hispanic/Latino populations are well represented amongst LVNs but underrepresented amongst RNs.

Oral Health

- The dental workforce is maldistributed. The San Joaquin Valley, Inland Empire, and Northern and Sierra regions have disproportionately small shares of the state's dentists. RDAs and RDHs, however, are evenly distributed in these regions.

- Licensure data suggests an increase in exits from the oral health workforce since 2020 that coincides with a decrease of new licenses issued. Since 2020, the number of dentists exiting the workforce has equaled the number of new licenses. For both RDAs and RDHs, the exits exceed the new licenses during this time period.

- Approximately 31 percent of dentists are 60 years old or more.

- Black populations are underrepresented in all oral health professions. Hispanic/Latino populations are underrepresented amongst dentists and RDHs, but well represented amongst RDAs.

Behavioral Health

- The behavioral health workforce is maldistributed. The San Joaquin Valley and Inland Empire regions have disproportionately small shares of nearly all of the state's behavioral health providers.

- Approximately 34 percent of educational psychologists and 29 percent of MFTs are 60 years old or more.

- Asian and Hispanic/Latino populations are underrepresented in all behavioral health professions.

Allied Health

- The allied health workforce is maldistributed. The Central Coast, Inland Empire, Northern and Sierra, and San Joaquin Valley regions have disproportionately small shares of the state's pharmacists and several other allied health professions.

- Black and Hispanic/Latino populations are underrepresented amongst OTs.

The full report can be accessed here:
Research Data Center Annual Report January 2023 FINAL (ca.gov)

STAFF COMMENTS/QUESTIONS

The Subcommittee requests HCAI present a high-level overview of all of its health care workforce programs, describe the new Health Workforce Research Data Center, and respond to the following:

1. What type of data and information will HCAI have with regards to California's health care workforce in the future as a result of the new Research Data Center?

2. What are California's most urgent health care workforce shortages and needs?

The Subcommittee requests the stakeholders on the panel to share their perspectives on the state's workforce shortages and gaps in the state's efforts to address those shortages.

Staff Recommendation: This is an oversight issue and therefore no action is recommended at this time.

4150 DEPARTMENT OF MANAGED HEALTH CARE
0530 CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

ISSUE 7: OVERVIEW OF DEPARTMENT OF MANAGED HEALTH CARE BUDGET

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

The January budget proposes $157.2 million for DMHC in 2023-24, a $27.3 million (21 percent) increase over the current (2022-23) year budget. DMHC is fully funded with special funds from the Managed Care Fund, which collects managed care licensing fee revenue. The department receives no General Fund. The proposed budget also increases staffing at DMHC by 137.6 positions, a 23 percent increase. From 2021-22 to 2023-24, staffing increases by 44 percent. The increases in funding and positions are reflected and explained in the myriad of DMHC budget change proposals over the past two years. The workload BCPs in this year's budget reflect the significant increase in workload that has resulted from the expansion in the industry over the past eight years; in 2015 there were 121 managed care plans as compared to 140 now.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2021-22	2022-23	2023-24	2021-22*	2022-23*	2023-24*
3870	Health Plan Program	519.9	610.0	747.6	$94,116	$129,901	$157,177
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**519.9**	**610.0**	**747.6**	**$94,116**	**$129,901**	**$157,177**

FUNDING		**2021-22***	**2022-23***	**2023-24***
0933	Managed Care Fund	$94,116	$129,901	$157,177
TOTALS, EXPENDITURES, ALL FUNDS		**$94,116**	**$129,901**	**$157,177**

BACKGROUND

The following background information about DMHC can be found on the DMHC website: https://dmhc.ca.gov/

DMHC's mission is to protect consumers' health care rights and ensure a stable health care delivery system. DMHC is made up of the following:

DMHC Help Center
The DMHC Help Center educates consumers about their health care rights, resolves consumer complaints against health plans, helps consumers understand their coverage and assists consumers in getting timely access to appropriate health care services. The DMHC Help Center provides direct assistance in all languages to health care consumers through the Department's website, www.HealthHelp.ca.gov, and a toll-free phone number, 1-888-466-2219.

Office of Plan Licensing
As part of the licensing process, the Office of Plan Licensing (OPL) reviews all aspects of a health plan's operations, including benefits and coverage (Evidences of Coverage), template contracts with doctors and hospitals, provider networks, mental health parity and complaint and grievance systems. After licensure, the OPL monitors health plans and any changes made to plan operations, including changes in service areas, contracts, benefits or systems. The OPL also periodically identifies specific licensing issues for focused examination or investigation.

Office of Plan Monitoring
The Office of Plan Monitoring (OPM) monitors health plan networks and delivery systems. The OPM conducts routine surveys and non-routine surveys when a specific issue or problem requires a focused review of a health plan's operations. A routine survey of each licensed health plan is performed every three years. The OPM also monitors health plan provider networks and the accessibility of services to enrollees by reviewing the geographic standards, provider-to-patient ratios and timely access to care. Additionally, OPM reviews health plan block transfer filings when a contract terminates between a health plan and a hospital or provider group.

Office of Financial Review
The Office of Financial Review (OFR) monitors health plan financial statements and filings, and analyzes health plan reserves, financial management systems and administrative arrangements. The OFR conducts routine financial examinations of each health plan every three to five years and initiates non-routine financial examinations as needed.

OFR also administers the Department's premium rate review program, which has saved Californians hundreds of millions of dollars in health care premiums. The DMHC's rate review program holds health plans accountable through transparency and ensures consumers get value for their premium dollar. When the DMHC finds a proposed rate change to be unreasonable, the health plan must notify impacted members of the unreasonable finding.

Office of Enforcement
The Office of Enforcement represents the Department in actions to enforce the managed health care laws. The primary purpose of an enforcement action is to change plan behavior to comply with the law. Enforcement actions include issuing cease and desist orders, imposing administrative penalties (fines), freezing enrollment and requiring corrective actions. When necessary, the DMHC may pursue legal action to ensure health plans follow the law.

Office of Legal Services
The Office of Legal Services (OLS) provides legal, legislative, and policy analysis and advice to the DMHC. OLS also develops necessary and appropriate regulations to administer the Knox-Keene Health Care Service Plan Act of 1975.

Office of Administrative Services - (OAS)
The Office of Administrative Services provides a variety of administrative support services to the Department, including accounting, budgets, business management services, and human resources.

Office of Technology and Innovation
The office of Technology and Innovation (OTI) provides technology support to the Department including hardware, software and information security services.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests DMHC provide an overview of the department's proposed budget, provide an explanation of the significant increases in staffing and expenditures, and respond to the following:

1. Is there any evidence that DMHC's rising costs measurably drive up overall health care costs in California?

2. What's the justification for the proposed workload budget requests?

Staff Recommendation: This is an oversight issue and therefore no Subcommittee action is needed at this time.

ISSUE 8: GENDER AFFIRMING CARE (SB 923) BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, Department of Managed Health Care (DMHC)
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

This BCP requests resources for the Department of Managed Health Care (DMHC), the California Health and Human Services Agency (CalHHS), and the Department of Health Care Services (DHCS), as follows:

DMHC:
DMHC requests limited-term expenditure authority in 2023-24 through 2026-27 (equivalent to 0.5 staff) and 4.5 positions and $1,196,000 from the Managed Care Fund in 2023-24, 7.0 positions and $1,732,000 in 2024-25, 9.0 positions and $2,284,000 in 2025-26, $2,251,000 in 2026-27, $2,233,000 in 2027-28 and annually thereafter to implement the requirements of SB 923 (Wiener, Chapter 822, Statutes of 2022).

This request includes limited-term resources (equivalent to 0.5 position) in the amount of $117,000 in 2023-24 and $108,000 in 2024-25 through 2026-27 to address the workload resulting from SB 923 implementation.

This request also includes $7,000 in 2023-24, $9,000 in 2024-25, $13,000 in 2025-26 and annually thereafter for additional annual software licensing costs for access to the Necessary Infrastructure Modernization for Business Unified Services (NIMBUS) platform for the new positions requested in this proposal.

CalHHS:
CalHHS is requesting expenditure authority of $400,000 in 2023-24 from the General Fund for consultant services to plan, organize and facilitate the required transgender, gender diverse, or intersex (TGI) working group. The working group will be tasked with developing a quality standard for patient experience to measure cultural competency related to the TGI community and recommend training curriculum to provide trans-inclusive health care.

DHCS:

DHCS requests 11.0 permanent positions, three year limited-term (LT) resources equivalent to 3.0 positions and expenditure authority of $2,696,000 ($1,348,000 General Fund (GF); $1,348,000 Federal Fund (FF)) in fiscal year (FY) 2023-24, $3,570,000 ($1,785,000 GF; $1,785,000 FF) in FY 2024-25, $2,070,000 ($1,035,000 GF; $1,035,000 FF) in FY 2025-26, and $1,575,000 ($788,000 GF; $787,000 FF) in FY 2026-27 and ongoing, to implement the requirements outlined in SB 923. These positions will help to plan, coordinate, and manage the expansion of Post Adjudicated Claims and Encounter System (PACES) to Drug Medi-Cal Organized Delivery System (DMC-ODS) and Program of All-Inclusive Care for the Elderly (PACE) organizations.

DMHC:

Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 0933 - Managed Care Fund	0	1,196	1,732	2,284	2,251	2,233
Total State Operations Expenditures	**$0**	**$1,196**	**$1,732**	**$2,284**	**$2,251**	**$2,233**
Total All Funds	**$0**	**$1,196**	**$1,732**	**$2,284**	**$2,251**	**$2,233**

CalHHS:

Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 0001 - General Fund	0	400	0	0	0	0
Total State Operations Expenditures	**$0**	**$400**	**$0**	**$0**	**$0**	**$0**
Total All Funds	**$0**	**$400**	**$0**	**$0**	**$0**	**$0**

DHCS:

Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 0001 - General Fund	0	1,348	1,785	1,035	788	788
State Operations - 0890 - Federal Trust Fund	0	1,348	1,785	1,035	787	787
Total State Operations Expenditures	**$0**	**$2,696**	**$3,570**	**$2,070**	**$1,575**	**$1,575**
Total All Funds	**$0**	**$2,696**	**$3,570**	**$2,070**	**$1,575**	**$1,575**

BACKGROUND

The administration provided the following background information:

The Williams Institute estimates that in the state of California, at least 218,400 individuals identify as transgender. Despite making up a significant portion of California's population, TGI people often do not receive the health care they need. Many transgender patients encounter discrimination and difficulty accessing culturally competent health care. SB 923 seeks to create a healthcare system that meets the needs of TGI people, and verify that providers are trained to provide a more positive patient experience.

SB 923 added Sections 1367.043 and 1367.28 to the Health and Safety Code (HSC), which requires health plans, and their delegate staff who are in direct contact with enrollees, to complete evidence-based cultural competency (CC) training so they can proficiently provide trans-inclusive health care to individuals who identify as transgender, gender diverse, or intersex (TGI). SB 923 also requires the CC training to be facilitated by a TGI-serving organization and the training curriculum would be subject to DMHC's approval following engagement with TGI-serving organizations. SB 923 stipulates that any health plan staff who may have been found to have failed in providing trans-inclusive health care would be required to complete a refresher course on the topic.

Additionally, SB 923 requires a TGI working group to be convened in consultation with other state departments by CalHHS. CalHHS will coordinate with a consultant to plan, organize and facilitate a TGI working group to develop a quality standard for patient experience to measure cultural competency related to the TGI community and recommend training curriculum to provide trans-inclusive health care.

The TGI working group will be tasked with developing a quality standard for patient experience to measure cultural competency related to the TGI community, in addition to recommending an appropriate training curriculum. The working group will conduct at least four listening sessions across the state with patients from the TGI community. The quality standard and recommendations for the curriculum need be developed no later than March 1, 2024. After engaging with local constituency groups and TGI-serving organizations, the DMHC is tasked with approving the training curriculum, in addition to developing and implementing various compliance procedures that are set forth in the bill.

DMHC shall:

- Review individual case complaints the department receives alleging discrimination based on gender identity and refer those complaints to the Civil Rights Department.
- Review the complaints the department receives involving improper denials, etc., to determine whether any enforcement actions, including sanctions, may be appropriate, in addition to tracking and monitoring complaints related to trans-inclusive care and publicly report on this information.
- Approve the health plans' use of CC training curriculum.
- Annually review health plan documents to ensure compliance.
- Modify existing plan survey methodologies and tools and revise policies and procedures.
- Provide a status report to the Legislature, semiannually, until regulations are adopted.
- Participate with CalHHS to convene a TGI working group.
- Develop Administrative Procedures Act (APA)-exempt DMHC All Plan Letters (APL), guidance and procedures.

- Issue guidance (no later than March 1, 2025) to ensure health plans are in compliance with the bill's TGI and CC training requirements.
- Promulgate formal regulations by July 1, 2027.
- Annually review health plan documents to ensure compliance with the provisions of SB 923.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DMHC present this proposal (noting that CalHHS is also available to answer questions), and respond to the following:

1. When is the first report to the Legislature due?

2. How will the administration engage the TGI community on the implementation of SB 923?

For the LAO: have you reviewed this proposal and found the request for both positions and other resources to be reasonable and justified?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

ISSUE 9: HEALTH CARE COVERAGE: ABORTION SERVICES: COST SHARING (SB 245) BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

DMHC requests limited-term expenditure authority (equivalent to 2.0 staff) and $499,000 from the Managed Care Fund in 2023-24 and $483,000 in 2024-25 through 2027-28 to develop legal memoranda and regulations related to the requirements of SB 245 (Gonzalez, Chapter 11, Statutes of 2022).

This request includes $2,000 annually for additional annual software licensing costs for access to the Necessary Infrastructure Modernization for Business Unified Services (NIMBUS) platform for the new positions included in this proposal.

BACKGROUND

The administration provided the following background information:

Under California law, health care service plans (health plans) are already required to cover abortion and abortion related services. The medically necessary pre-abortion and follow-up services that constitute basic health care services must also be covered. The Reproductive Privacy Act prohibits the state from denying or interfering with a person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the person.

SB 245 adds Health and Safety Code (HSC) section 1367.251 and requires full-service health plans to cover abortion and abortion-related services, including pre-abortion and abortion follow-up services, without a co-payment, deductible, or any type of cost-sharing requirement. A high deductible health plan may, however, charge cost-sharing until the health plan enrollee's deductible for the benefit year has been met. A health plan and an insurer subject to these requirements would be prohibited from imposing utilization management (UM) or utilization review (UR) on the coverage for outpatient abortion services.

SB 245 allows DMHC, in consultation with the Department of Health Care Services (DHCS) and the California Department of Insurance (CDI), to interpret and implement the bill in informal guidance. DMHC must adopt related regulations by January 1, 2026. All provisions of the bill apply to health plans licensed by DMHC and insurers licensed by the CDI and the health plans' delegated entities. The provisions of the bill would also apply to Medi-Cal managed care health plans (MCPs) as well as their contracting network providers, independent practice associations, preferred provider groups and all subcontractors that provide physician services, UM, or UR.

DMHC shall:

- Interpret and implement provisions of SB 245, in consultation with DHCS and CDI, by means of plan letters or similar guidance;
- Adopt regulations by January 1, 2026, to clarify the provisions of SB 245; and
- Annually review health plan documents, including evidence of coverage and disclosure forms, utilization management data and health plan survey data to ensure compliance with SB 245.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DMHC present this proposal and respond to the following:

1. For what reasons are the costs higher than what was provided to the Appropriations Committees last year for SB 245?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

ISSUE 10: HEALTH CARE SERVICE PLANS: DISCIPLINE: CIVIL PENALTIES (SB 858) BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

DMHC requests 40.5 positions and $12,570,000 in 2023-24, $9,510,000 in 2024-25, $9,562,000 in 2025-26, $9,618,000 in 2026-27, $9,678,000 in 2027-28, $9,715,000 in 2028-29 and annually thereafter from the Managed Care Fund to implement the requirements of SB 858 (Wiener, Chapter 985, Statutes of 2022).

This request includes consultant funding of $135,000 annually for three expert witness consultants, $146,000 annually for trial-related contract costs, $447,000 annually for clinical consultants to assist with the ongoing review of health plans policies and procedures and $86,000 annually for statistical consultants to assist with analyzing utilization management processes to ensure compliance with SB 858 requirements.

The request includes $2,778,000 for IT consulting costs in 2023-24 available contingent upon the approval of Project Approval Lifecycle (PAL) documents.

Finally, this request includes $42,000 annually for software licensing costs to access the Necessary Infrastructure Modernization for Business Unified Services (NIMBUS) platform for the new positions requested in this proposal.

BACKGROUND

The administration provided the following background information:

Currently, the DMHC enforces the Knox-Keene Act through a variety of means. The day-to-day oversight operations of the DMHC's Office of Plan Licensing (OPL), Office of Financial Review (OFR), Office of Plan Monitoring (OPM) and Help Center regularly uncover various potential violations of the law. In many cases, health plans correct such potential or overt violations based on communication with the DMHC and the issue does not warrant further enforcement action. However, when the violations are serious, systemic, harmful to enrollees, or otherwise warrant punitive or other corrective action,

the DMHC office or program that identified the problem refers the matter to the DMHC's Office of Enforcement (OE).

The OE reviews these referrals for possible enforcement action, as well as occasionally undertaking its own investigation and action when it uncovers potential violations of the Knox-Keene Act. The Knox-Keene Act provides the DMHC, throughout its many statutes, with wide latitude and discretion to enforce its provisions against both licensed health plans and other entities that may violate its requirements. A key enforcement statute, however, is Health and Safety Code (HSC) Section 1386, which sets forth a list of types of conduct considered to be grounds for disciplinary action. This list paints in broad strokes, including a provision stating a health plan that, directly or indirectly, violates, attempts to violate, or conspires to violate any provision of the Knox-Keene Act, any regulation under the Knox-Keene Act, or any order issued by the DMHC director is subject to disciplinary action.

SB 858 revises the administrative and civil penalty provisions of the Knox-Keene Act and increases various specified penalty amounts assessed against health plans and others for violations of the Knox-Keene Act. The bill amends (HSC) section 1386 and provides the DMHC with specific authority to impose corrective action plans (CAP) on health plans as an enforcement tool, which allows the DMHC to use CAPs as a specific enforcement tool to require specific actions by health plans, for any violation of the Knox-Keene Act. It also provides that the DMHC shall monitor compliance with the CAP through its existing oversight activities or other means necessary to assure timely compliance. The health plans have even more incentive to comply with the CAP because failure to do so can result in additional fines and penalties.

SB 858 also amended HSC section 1387, which stated that persons violating the Knox-Keene Act were liable for a civil penalty of up to $2,500, by increasing the amount to $25,000. This bill also modified six additional statutes in the Knox-Keene Act that have specific dollar-amount penalties enumerated. It doubled the amounts in these sections, which are for the following specific violations:

- Discrimination based on genetic characteristics;
- Failure to implement an independent medical review ruling;
- False declaration by a solicitor;
- Criminal violation of the Knox-Keene Act;
- Violation of health plan license requirement; and
- Violations of small group coverage and preexisting condition law.

SB 858 added a clause to the enumerated penalty provisions (the six described above) providing that beginning January 1, 2028, and every five years thereafter, the amount of the penalty will be adjusted based on the average change in premium rates for the individual and small group markets, weighted by enrollment, since the previous adjustment.

The DMHC recognizes that effective deterrence of Knox-Keene Act violations is a critical function of its regulatory authority. As mentioned above, SB 858 updates various specific dollar-amount penalties throughout the Knox-Keene Act, applicable to civil penalties, criminal penalties and various administrative penalties. The goal of the bill is to enhance the enforcement authority of the DMHC and ensure penalties are sufficient to deter health plans from noncompliance.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests DMHC present this proposal and respond to the following:

1. This request includes 40.5 new positions at DMHC which represents nearly a 7 percent expansion to the department's staff. Please provide some justification for such a significant workload associated with this proposal.

For the LAO: Given the significant number of new positions being requested, have you reviewed this proposal and found the request for both positions and other resources to be reasonable and justified?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

ISSUE 11: OFFICE OF FINANCIAL REVIEW WORKLOAD BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

The DMHC requests expenditure authority of $2,676,000 in 2023-24, $2,553,000 in 2024-25 and annually thereafter to fund 14.5 positions and associated costs from the Managed Care Fund to conduct more frequent financial examinations of health plans and Risk Bearing Organizations (RBOs) and to address the additional workload associated with the increasing number of health plans licensed by the DMHC.

BACKGROUND

The administration provided the following background information:

The DMHC's Office of Financial Review (OFR) works to ensure stability in California's health care delivery system by actively monitoring the financial status of health plans and provider groups, known as RBOs, so that they can meet their financial obligations to consumers, providers and other purchasers. The DMHC reviews health plan financial statements and filings and analyzes health plan reserves, financial management systems and administrative arrangements. The DMHC also conducts routine financial examinations of each health plan every three to five years and initiates non-routine financial examinations as needed. The routine examinations focus on health plan compliance with financial and administrative requirements that include reviewing health plan claims payment practices and provider dispute resolution processes.

The number of the DMHC licensed health plans and covered lives under the DMHC's jurisdiction has steadily increased from 121 licensed health plans and 25 million covered lives in 2015 to 140 licensed health plans and over 28 million covered lives in 2021. As a result of these increases, the workload associated with routine financial examinations and non-routine financial examinations has progressively increased. Due to the increasing financial solvency and statutory compliance issues identified during the examinations, it is also necessary for the DMHC to increase the frequency of routine examinations of RBOs to ensure each RBO is reviewed at least once every five years.

Additionally, the number of health plans subject to financial examinations has grown by 40 percent since 2009, from approximately 100 to 140 as of December 31, 2021. As the number of regulated health plans increases, the DMHC experiences a parallel increase in the number of financial examinations to be conducted.

The DMHC has received additional resources in the past to perform specific tasks during routine examinations as required by legislation. However, the DMHC has not received resources to increase the frequency of routine examinations needed or to address the additional workload resulting from the increasing number of regulated health plans. Finally, this is the first workload budget request for the OFR since 2009.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DMHC present this proposal and respond to any questions raised in the hearing.

For the LAO: have you reviewed this proposal and found the request for both positions and other resources to be reasonable and justified?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

ISSUE 12: OFFICE OF LEGAL SERVICES DOJ LEGAL FEES BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

The DMHC requests $400,000 from the Managed Care Fund in 2023-24 and ongoing to support legal representation by the California Department of Justice (DOJ), Attorney General's Office (AGO) in litigation to which the DMHC is a party or in which the DMHC is called as a witness.

BACKGROUND

The administration provided the following background information:

The DMHC's Office of Legal Services (OLS) provides legal and policy advice to the Director, Chief Deputy Director, Assistant/Deputy Directors and all the DMHC programs. The OLS also recommends and develops necessary and appropriate statutes and regulations to administer the Knox-Keene Act. In addition, the OLS conducts legal research, drafts legal analyses and makes policy and operational recommendations consistent with those analyses. The OLS leads rulemaking activities for the DMHC including pre-notice stakeholder engagement, drafting regulation language and creating regulation packages, conducting public hearings, responding to public comments and shepherding the regulation package through the Office of Administrative Law.

In recent years, the number of legal cases in which the DMHC is a party or called as a witness has increased significantly. In addition to the number of cases, the complexity and significance of the cases has increased dramatically, with many of these cases centering on issues of state and nationwide impact. The DMHC anticipates the number and complexity of legal cases will continue to be high in the coming years given the lingering effects of COVID-19 on the stability of the health care system, the potential limitation or elimination of access to abortion in some parts of the country and the continued increase in mergers between health plans. Given the complexity and import of these matters, these cases often proceed to the appellate courts (sometimes a case will go to the appellate courts, then back to the trial court multiple times). Briefing and preparing these cases for hearing is labor intensive and requires the AGO to put in a significant number of hours. Government Code Section 11044(b) requires the AGO to

charge an amount sufficient to recover the costs incurred for legal services provided to state departments and agencies.

Other legal cases challenge significant state-wide policies, including the "benchmark" plan the California Legislature selected to serve as the standard for establishing what "essential health benefits" a health plan must offer in California to be compliant with the federal Affordable Care Act (ACA). Parties have also sued the DMHC challenging implementation and enforcement of California statutes, including SB 510 (Pan, Chapter 729, Statutes of 2020), which requires health plan coverage for COVID-19 testing and vaccine administration.

Additionally, health plans are increasingly merging or purchasing entities under the DMHC's jurisdiction. In 2018, the Legislature enacted AB 595 (Wood, Chapter 292, Statutes of 2018), which gave the DMHC greater authority to review the potential anti-competitive nature of these transactions. The DMHC consults with the AGO on these mergers, given the AGO's specialized expertise in this area.

These increases have caused the DMHC to incur legal fees of approximately $800,000 annually for representation by the AGO, which is a $400,000 annual cost increase since 2019-20.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DMHC present this proposal and respond to any questions raised in the hearing.

For the LAO: have you reviewed this proposal and found the request for both positions and other resources to be reasonable and justified?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

ISSUE 13: OFFICE OF TECHNOLOGY AND INNOVATION - INFORMATION SECURITY RESOURCES BUDGET CHANGE PROPOSAL

PANEL

- **Mary Watanabe**, Director, DMHC
- **Dan Southard**, Chief Deputy Director, DMHC
- **Matt Aguilera**, Principal Program Budget Analyst, DOF
- **Joseph Donaldson**, Finance Budget Analyst, DOF
- **Jason Constantouros**, Principal Fiscal and Policy Analyst, LAO

PROPOSAL

The DMHC requests expenditure authority of $3,459,000 in 2023-24, $3,432,000 in 2024-25, $3,467,000 in 2025-26, $3,482,000 in 2026-27, $3,608,000 in 2027-28 and annually thereafter to fund 5.0 positions and associated costs from the Managed Care Fund to address critical information technology (IT) gaps including security and privacy, develop a roadmap for implementing and maintaining the required IT securities, remediate recent audit findings, assist with security monitoring and enhancement and achieve alignment with the Cal-Secure 5-year plan that has been adopted by the California Department of Technology (CDT) and the Governor's Office.

This request includes consulting funding in the amount of $100,000 annually in 2023-24 through 2025-26 to assist the DMHC with the development of IT policies, plans and procedures, $75,000 annually in 2023-24 and 2024-25 for gap analysis consultants and one-time funding of $90,000 in 2023-24, for an identity lifecycle consultant.

BACKGROUND

The administration provided the following background information:

The DMHC's mission is to protect consumers' health care rights and ensure a stable health care delivery system. The DMHC protects the health care rights of more than 28 million Californians by regulating health care service plans, assisting consumers through a consumer Help Center, educating consumers on their rights and responsibilities, and preserving the financial stability of the managed health care system. Embedded in this mission is the DMHC's responsibility for ensuring IT systems are sufficient and secure for the DMHC's data, employees, and customers. The Office of Technology and Innovation (OTI) is tasked with providing adequate project management, reengineering and automating critical business processes to mitigate security vulnerabilities, including application/system development and support, procuring, and managing IT assets, data security and supporting staff members' IT needs.

Recent legislative and workload Budget Change Proposals (BCPs) have provided the DMHC with funding to modernize a small set of antiquated systems. However, to achieve its program goals, the DMHC intends to develop and implement a comprehensive IT and enterprise data strategy and develop solutions to support the DMHC's growing needs. The current staffing and consultant funding levels are not sufficient to support activities related to maintaining the current systems portfolio needs, including maintenance, operations, and low-level enhancements. This includes overall project/process management, accessibility remediation, and business process reengineering support. The DMHC currently lacks sufficient resources to implement, operationalize and maintain the required security controls.

In fiscal year 2020-21, a workload BCP was submitted and approved to provide the DHMC two (2.0) positions and limited term consultant funding to address the DMHC's highest information security and cybersecurity vulnerabilities. Subsequently, the information and cybersecurity threats have increased exponentially in frequency and sophistication and the DHMC has limited resources to address these ongoing, growing threats. The current staffing and consultant funding levels are not sufficient to provide adequate project management, re-engineer and automate critical business processes, and mitigate security vulnerabilities.

In June 2021, the California Military Department (CMD) completed an assessment that identified the DMHC lacks adequate information security resources to capture data, perform critical daily security practices, and document security procedures. These findings were also noted in the August 2021 Independent Security Audit findings. The audit revealed nine (9) high-risk and 21 medium-risk findings within the framework of the National Institute of Standards and Technology (NIST) categories. It was determined that the DMHC needs to adopt 38 new information security policies, 12 information security and privacy plans and, at a minimum, 87 procedures that need to be created and maintained.

Additionally, the audits identified the DMHC had not implemented role-based training in accordance with the State Administrative Manual (SAM) section 5320 and does not maintain a software platform and application inventory listing of all programs and information systems that are collecting, using, maintaining, or sharing state-entity information. The DMHC currently lacks sufficient resources to implement, operationalize, and maintain the required security controls.

STAFF COMMENTS/QUESTIONS

The Subcommittee requests that DMHC present this proposal and respond to any questions raised in the hearing.

For the LAO: have you reviewed this proposal and found the request for both positions and other resources to be reasonable and justified?

Staff Recommendation: Subcommittee staff is not aware of any significant concerns with this proposal and therefore recommends approval at a future hearing, thereby allowing additional time for discussion and consideration.

NON-DISCUSSION ITEMS

The proposals in this section of the agenda will not be presented or discussed at the hearing, however public comment is welcome on all issues on the agenda, including the non-discussion items.

4140 DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION

ISSUE 14: ABORTION PRACTICAL SUPPORT (SB 1142) BUDGET CHANGE PROPOSAL

PROPOSAL

HCAI requests $100,000 expenditure authority annually from the General Fund for Fiscal Years (FY) 2023-24 through FY 2027-28 to contract with an external organization to conduct the annual evaluations of the Abortion Practical Support Fund as required by SB 1142 (Caballero, Skinner, Chapter 566, Statutes of 2022).

BACKGROUND

The administration provided the following background information:

SB 184 established the Abortion Practical Support Fund with $20 million appropriated to HCAI in the 2022 Budget Act to provide grants to health care providers ensuring individuals seeking abortion care have the necessary supports to enable them to obtain abortion services. Section 123451 of the Health and Safety Code (HSC) defines "practical support" as "financial or in-kind assistance to help a person access and obtain an abortion in California."

SB 1142 adds HSC Section 123452.5 mandating that HCAI conduct an annual evaluation of the Abortion Practical Support fund every year for five years. The funds requested will allow HCAI to conduct the necessary evaluation of achieving the intended purpose of increasing access to abortion care for those both inside and outside of California.

The first evaluation required by SB 1142 is due no later than January 1, 2025, and will cover the period prior to July 1, 2024. Annual reports to the legislature are due no later than January 1 each subsequent year. The Budget Act of 2022 did not include appropriations to cover the cost of the annual evaluations required in SB 1142. HCAI is requesting $100,000 a year for five years ($500,000 total) to conduct the required annual evaluations. Without these funds, HCAI will be unable to evaluate the effectiveness of the grant program, including evaluation of how well the $20 million helped people access safe abortions and reproductive health care in California.

The evaluation will include mixed methods to understand the impact of the program. HCAI will use qualitative and quantitative methods to collect data from providers and partner organizations to measure the overall access to services, demographics of communities and individuals served, and any remaining barriers to access.

This proposal will provide resources for HCAI to contract with an external organization to conduct evaluations to measure the use and effectiveness of these funds. The evaluation will collect and measure data including which services Grantees provided for practical support, the number of patients served, and how these services increased access.

Staff Recommendation: Subcommittee staff is unaware of any significant concerns with this proposal and therefore recommends approval at a future hearing.

ISSUE 15: HOSPITALS: SEISMIC SAFETY (AB 1882) BUDGET CHANGE PROPOSAL

PROPOSAL

HCAI requests 1.0 position and $120,000 expenditure authority from the Hospital Building Fund for Fiscal Years (FY) 2023-2024 and ongoing to assist in the implementation of AB 1882 (Robert Rivas, Nazarian, Rodriguez, Chapter 584, Statutes of 2022).

BACKGROUND

The administration provided the following background information:

AB 1882 requires HCAI to identify on its website hospital buildings that, based on seismic safety standards, do not significantly jeopardize life, but may not be repairable or functional following an earthquake; these are Structural Performance Category (SPC)-2 rated buildings. HCAI may also identify on its website buildings determined "earthquake resilient" based on seismic safety standards. Until compliance is met, hospital owners must provide an annual status update to HCAI, the Office of Emergency Services, relevant local government entities, and other interested parties regarding a general acute care hospital's compliance with the seismic safety regulations or standards outlined in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (HFSSA). This bill also requires HCAI to develop notices for public posting in the buildings that are non-compliant with the 2030 seismic safety standards. The hospitals are required to post these public notices in any public lobby or waiting area in non-compliant buildings.

AB 1882 requires HCAI to conduct the following activities prior to July 1, 2023:

1. Program to the existing in-house Accela project software to collect database information as required from non-compliant general acute hospitals.

2. Develop multiple public posting notices that clearly convey to patients and the public that the hospital is not in compliance with seismic safety regulations and standards.

3. Prepare and process the necessary regulations to the California Building Code during the 2022 Intervening Code Cycle.

Outcomes from this program will be transparency to the patients, emergency service providers, hospital staff, and the community at-large that a general acute care hospital is not in compliance with seismic safety regulations and standards and that a facility may not be fully functional and able to provide care following an earthquake.

The funding requested is supported by fees from the governing board of hospitals or other authority when applying for approval of construction plans.

Any changes as a result of this bill that could impact hospital building code regulations must be approved by the Hospital Building Safety Board. The Hospital Building Safety Board advises the HCAI Director on the administration of the Hospital Facilities Seismic Safety Act and acts as a board of appeals with regard to seismic safety and fire and life safety issues relating to hospital facilities.

Staff Recommendation: Subcommittee staff is unaware of any significant concerns with this proposal and therefore recommends approval at a future hearing.

4150 DEPARTMENT OF MANAGED HEALTH CARE

ISSUE 16: HEALTH CARE COVERAGE: PRESCRIPTION DRUGS COVERAGE (AB 2352) BUDGET CHANGE PROPOSAL

PROPOSAL

DMHC requests 2.0 positions and $343,000 in 2023-24, $323,000 in 2024-25, $333,000 in 2025-26 and annually thereafter from the Managed Care Fund to address the requirements of AB 2352 (Nazarian, Chapter 590, Statutes of 2022).

This request includes consultant funding of $17,000 in 2023-24, $15,000 in 2024-25, $25,000 in 2025-26 and annually thereafter for a clinical consultant to assist in reviewing health plan policies and procedures to ensure compliance with AB 2352 requirements.

This request also includes $2,000 annually for software licensing costs for access to the Necessary Infrastructure Modernization for Business Unified Services (NIMBUS) platform for the new positions included in this proposal.

BACKGROUND

The Administration provided the following background information:

Currently, many health plans that provide a prescription drug benefit maintain one or more lists of drugs preferred for use and eligible for coverage. This list is called a formulary. The Knox-Keene Act requires health plans that cover prescription drugs to cover all medically necessary drugs, irrespective of whether they are listed on the formulary. Formularies can place drugs into different cost-sharing tiers, which control how much an enrollee must pay out of pocket for a drug. A health plan may use utilization management (UM) techniques as a way of controlling prescription drug costs. These UM techniques can include requirements such as prior authorization, where a plan requires the enrollee or prescribing provider to obtain plan authorization first before the plan will cover the drug.

The Knox-Keene Act requires non-grandfathered health plans in the small group and individual markets to cover prescription drugs as an Essential Health Benefit (EHB). All health plans that provide a prescription drug benefit and maintain at least one formulary must provide, upon request, a copy of the most current list of prescription drugs on the formulary. All such health plans must also post that formulary on the plan's website. Additionally, the Knox-Keene Act prohibits health plans from restricting a prescribing provider from disclosing the cost range of prescription drugs.

AB 2352 adds Health and Safety Code (HSC) section 1367.207 that requires a health plan to provide specified information about a prescription drug upon request by an enrollee or a prescribing provider. AB 2352 prohibits a health plan or health insurer from restricting a prescribing provider from sharing the information provided about the prescription drug, including information about the cash price of the drug, or penalizing a provider for prescribing, administering, or ordering a lower cost or clinically appropriate alternative drug.

Effective July 2, 2023, AB 2352 requires health plans to place information specific to a particular drug in one place where an enrollee or a provider could make a single request for specific cost information about prescription drugs. This will allow prescribing providers and patients to discuss drug costs at the time the drugs are being prescribed, to avoid a situation where a provider prescribes a drug for an enrollee, only to learn at the pharmacy counter that they cannot actually afford that drug. AB 2352 further encourages health plans to use an application programming interface (API) to respond to enrollee and provider requests for information specific to a particular prescription drug. An API is a software intermediary that enables two applications to interface. In other words, an API acts as a bridge between two separate software applications and helps to enable the secure exchange of information.

AB 2352 requires a health plan that provides prescription drug benefits and maintains at least one formulary to:

- Upon the request of an enrollee or an enrollee's provider, provide the following information to either the enrollee or the provider:
  - Enrollee's eligibility for the drug.
  - The formulary or formularies.
  - Cost-sharing information for the drug and any other formulary alternatives. This information must be consistent with cost-sharing requirements as set forth in the contract and accurate at the time it is provided, and it must include variations based upon the patient's preferred pharmacy.
  - Applicable utilization management requirements or other formulary alternatives.
- Respond to the afore-mentioned request "in real time" through a standard API.
- Ensure the information provided is current no later than one business day after a change is made and is provided in real time.
- Allow the use of an "interoperability element" to provide the information in the request above.

AB 2352 requires DMHC to:

- Annually review health plan documents to ensure compliance with the provisions of AB 2352.
- Modify existing plan survey methodologies and tools, including technical assistance guides (TAGS), to meet the requirements of AB 2352.
- Revise policies and procedures for compliance with AB 2352.

Staff Recommendation: Subcommittee staff is unaware of any significant concerns with this proposal and therefore recommends approval at a future hearing.

ISSUE 17: HEALTH INFORMATION (SB 1419) BUDGET CHANGE PROPOSAL

PROPOSAL

DMHC requests 3.0 positions and $572,000 in 2023-24, $547,000 in 2024-25 and annually thereafter from the Managed Care Fund to implement the requirements of SB 1419 (Becker, Chapter 888, Statutes of 2022).

This request includes $3,000 annually for annual software licensing costs for access to the Necessary Infrastructure Modernization for Business Unified Services (NIMBUS) platform for the new positions included in this proposal.

BACKGROUND

The administration provided the following background information:

Existing law provides significant, detailed regulatory and compliance requirements around provider directories. The Knox-Keene Act requires health plans to publish and maintain a provider directory or directories with information on contracting providers that deliver care to plan enrollees, including those who accept new patients. These directories must be published in print and online. The printed directories must be updated at least quarterly and the online directories must be updated at least weekly. Additionally, provider directories must be updated upon completion of an investigation, if a determination is made that a change is necessary due to an enrollee complaint. Similarly, plans must delete providers from the directory when a provider has retired or is no longer under contract.

SB 1419 requires health plans to establish and maintain a provider directory application programing interface (API). An API is a software intermediary that enables two applications to interface. In other words, an API acts as a bridge between two separate software applications and helps to enable the secure exchange of information. A health plan would have to implement and maintain a publicly available API that provides a complete and accurate directory of the health plan's network of contracting providers, including names, addresses, phone numbers and specialties which would be updated no later than thirty calendar days after the health plan receives or updates provider directory information.

SB 1419 added Section 1374.196 to the Health and Safety Code (HSC) that requires health plans to establish and maintain 1) a patient access API, 2) a provider directory API, and 3) a payer-to-payer exchange. SB 1419 also allows the DMHC and California Department of Insurance to require health plans to establish and maintain 1) a provider access API and 2) a prior authorization support API.

In addition to the provisions related to APIs for health plans and insurers, SB 1419 amends an existing prohibition on disclosure of minors' medical records to the minor's representative (e.g., parents and guardians). Under existing law, these representatives are limited in their right to inspect medical records for health care services to which the minor can lawfully consent without parent or guardian approval. SB 1419 expands this prohibition to encompass the health care provider's clinical notes, including specific references to existing statutes specifying minors' rights to consent to specific medical and mental health treatment services, in addition to other medical records.

SB 1419 will require the DMHC to:

- Annually review health plan documents;
- Modify existing plan survey methodologies and tools to meet the requirements of SB 1419; and
- Revise policies and procedures.

Staff Recommendation: Subcommittee staff is unaware of any significant concerns with this proposal and therefore recommends approval at a future hearing.