



**STATE LEGISLATION COMMITTEE  
Legislative Proposal Form**

This form should be used to submit legislative proposals for consideration by the State Legislation Committee. Before submission, proposals must be reviewed and approved by the Department Head or Commission.

***Please send completed forms to Andrew Dayton in the Mayor's Office at [andrew.dayton@sfgov.org](mailto:andrew.dayton@sfgov.org)***

<b>SUBMITTING DEPARTMENT</b>	Health Service System
<b>CONTACT PERSON E-mail and Phone #</b>	Catherine Dodd <a href="mailto:Catherine.dodd@sfgov.org">Catherine.dodd@sfgov.org</a> 415-554-1727
<b>Bill Number (Sponsor)</b>	SB 932 Senator Ed Hernandez
<b>EXISTING ISSUE &amp; PRESENT STATE LAW</b>	<p>Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires every nonprofit health care service plan applying to restructure, as defined, or convert its activities to secure the approval of the Director of the Department of Managed Health Care. Existing law requires the Director of the Department of Managed Health Care to provide the public notice of, reasonable access to, and an opportunity to comment on, public records relating to the restructuring or conversion of a health care service plan. Existing law requires any nonprofit health care service plan that is formed under, or subject to, either the Nonprofit Public Benefit Corporation Law or the Nonprofit Mutual Benefit Corporation Law to secure the written consent of the Director of the Department of Managed Health Care prior to any merger. If a health care service plan proposes a merger, consolidation, acquisition of a controlling interest, or sale of the plan or all or substantially all of the assets of the plan, existing law requires the plan to file a notice of material modification with the Director of the Department of Managed Health Care, who shall, within 20 business days or additional time as the plan may specify, approve, disapprove, suspend, or postpone the effectiveness of the change, subject to specified procedural requirements.</p> <p>Consolidation in the health care market through mergers and acquisitions and anti-competitive policies and practices have been increasing during the last decade thus creating reduced competition in the health services sector without sufficient state oversight and the risk of higher prices and lower quality for consumers and less accountability. This situation is especially true for SF HSS in Alameda County where there is only one non Kaiser health system available.</p>



<p><b>RECOMMENDED PROPOSAL</b></p>	<p>This proposal prohibits specific anti-competitive provisions from contracts, including or impacting the following:</p> <ol style="list-style-type: none"> <li>1) exclusivity (all or nothing) clauses;</li> <li>2) requiring a particular tiered network plan owned or controlled or affiliated with the contracted provider;</li> <li>3) setting rates for emergency services by a provider owned, controlled, or affiliated contract provider;</li> <li>4) conflicts of interest;</li> <li>5) a requirement that the network vendor or payor submit disputes, other than claims for breach of contract for resolution through binding arbitration.</li> </ol> <p>A separate and voluntary arbitration agreement that is negotiated and concluded after the execution of the contract between the contracting provider and the network vendor or payor and it's not obtained under threat of non-participation in the network or threat of less favorable contract rates shall not be subject to this provision;</p> <ol style="list-style-type: none"> <li>6) disincentives to access alternative health care services;</li> <li>and 7) provisions that prohibit the disclosure of contracted health care service rates.</li> </ol> <p>It also requires the Director of the Office of Managed Care to approve Mergers and Acquisitions of health care plans and risk based organizations.</p>
<p><b>DISCUSSION/ ANALYSIS OF RECOMMENDED PROPOSAL</b></p>	<p><b>Among the State Legislative Committees priorities are:</b>  <b>Support Healthcare Cost and Quality Transparency</b>  <b>Support preventing Anti-Competitive Practices in the Healthcare Industry and</b>  <b>Support Fair Hospital Pricing</b>  <b>SB 932 addresses all of the above.</b></p> <p>While there are many factors that contribute to rising health care costs it is clear that two are increased concentration of health care providers and the use of anti-competitive practices by providers that raise costs in the healthcare marketplace. A 2014 study in the <i>Journal of the American Medical Association</i> found that, "...total expenditures per patient were 10% higher in physician organizations that were owned by a local hospital and 20% higher in organizations owned by multihospital systems than in organizations owned by participating physicians..." (p. 5) The California Labor Federation writing in support of the bill cites a 2015 study showing that "...hospital prices in monopoly market are 15.2% higher than in more competitive markets" (p. 8). (bill analysis).</p> <p>There is a robust body of academic research demonstrating that dominant health care providers are using their market power to engage in unfair contracting practices and negotiating higher-than-competitive prices. Currently the Health Care Costs are higher in Northern California than anywhere else in the state. Large systems are requiring purchasers to include every facility in a provider's network, regardless of performance. Groups are prohibiting employers and vendors from proactively disclosing the cost of a test procedure before an employee receives care, undercutting efforts to help consumers make fully informed decisions. The San</p>



	<p>Francisco Board of Supervisors has held hearings on this issue and the lack of price and quality transparency available to assist in negotiating coverage for employees and retirees. SF HSS has experienced higher premiums due to the anti-competitive practices of one hospital system in the Bay Area. These prices are limiting access to a choice of insurers for HSS members and costing tax payers millions of dollars.</p> <p>These anti-competitive practices must end. SB 932 deserves our support</p>
<p><b>RECOMMENDED POSITION</b> Please mark appropriate box</p>	<p><input type="checkbox"/> SPONSOR  <input checked="" type="checkbox"/> SUPPORT  <input type="checkbox"/> OPPOSE  <input type="checkbox"/> OTHER &amp; Describe</p>
<p><b>FISCAL IMPACT</b> Including impacts to the City's General Fund</p>	<p>This bill has not been analyzed by a fiscal committee; however, Section 5 of the Amendments notes that no reimbursement is required by this act from the State of California to local agencies, pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by local agencies will be because the act: (i) creates new infractions, and, (ii) changes the meaning of definitions of crimes, within the California Constitution and Section 17556 of the Government Code.</p>
<p><b>IMPACT TO OTHER DEPARTMENTS</b></p>	<p>The SF Health Network removed opposition based on amendments made in committee on April 26, 2016</p>
<p><b>REVIEWED &amp; APPROVED BY DEPARTMENT HEAD</b></p>	<p style="text-align: center;"><input checked="" type="checkbox"/> YES      <input type="checkbox"/> NO</p>
<p><b>OTHER ITEMS OF NOTE</b></p>	
<p><b><u>DATE SUBMITTED</u></b></p>	<p><u>May 31, 2016</u></p>