Date of Hearing: June 21, 2022

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
SB 1207 (Portantino) – As Amended April 7, 2022

SENATE VOTE: 32-3

SUBJECT: Health care coverage: maternal and pandemic-related mental health conditions.

SUMMARY: Revises existing law as it relates to the development of a material mental health program (program) to include quality measures to encourage screening, diagnosis, treatment, and referral; and, to encourage health care service plans (health plans) and health insurers to include coverage for doulas, incentivize training opportunities for contracting obstetric providers, and educate enrollees and insureds about the program. Specifically, **this bill**:

1) Requires health plans and insurers, as part of the program to, by July 1, 2023, include quality measures to encourage screening, diagnosis, treatment, and referral. Requires the program guidelines and criteria to be provided to relevant medical providers, including all contracting obstetric providers.

2) Encourages a health plan or insurer, as part of a maternal mental health program, to include coverage for doulas, incentivize training opportunities for contracting obstetric providers, and educate enrollees or insureds about the program.

3) Makes findings and declarations including that, now more than ever, for government, health plans, insurers, and health care providers to work cooperatively to provide outreach, education, and access to quality mental health treatment to support all Californians.

EXISTING LAW:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans, and the California Department of Insurance (CDI) to regulate health insurers.

2) Establishes the federal Patient Protection and Affordable Care Act (ACA), which enacts various health care coverage market reforms including the availability of health insurance exchanges (exchanges) and new individual and small group products offered on and off the exchanges beginning 2014.

3) Requires health plans and health insurers providing health coverage in the individual and small group markets to cover, at a minimum, essential health benefits (EHBs), including the 10 EHB benefit categories in the ACA, as specified in state law, which include the following 10 categories: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and, pediatric services, including oral and vision care.

4) Requires health plans to provide basic health care services, including: physician services; hospital inpatient and ambulatory care services; diagnostic laboratory and diagnostic and

therapeutic radiologic services; home health services; preventive health services; emergency health care services; and, hospice care.

5) Requires health plans to make all services readily available at reasonable times to each enrollee consistent with good professional practice and in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice.

6) Requires every health plan contract and disability insurance policy that provides hospital, medical, or surgical coverage issued, amended, or renewed on or after January 1, 2021 to provide coverage for medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions, as specified.

7) Defines medically necessary treatment of mental health or substance use disorder as a service or product addressing the specific needs of that patient, for the purposes of preventing, diagnosing, or treating an illness, injury, condition, or its symptoms, including minimizing the progression of that illness, injury, condition, or its symptoms, in a manner as specified.

8) Requires health plans and health insurers, by July 1, 2019, to develop, consistent with sound clinical principles and processes, a maternal mental health program, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee, staff estimates the following based on an analysis of a similar bill AB 2193 (Maienschein), Chapter 755, Statutes of 2018:

1) DMHC. Unknown, potentially significant costs (low hundreds of thousands, Managed Care Fund) for staff workload to ensure plan compliance. Staff anticipates costs to the CDI would be lower than that of DMHC given the proportion of plans and policies that each regulatory entity oversees.

2) CalPERS. Staff estimates unknown, potentially minor costs as health plans that contract with CalPERS currently provide case management for maternal mental health.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the author, the physical and mental health effects of the COVID-19 pandemic are especially dangerous for women experiencing pregnancy and childbirth. Loss of income or family members, deferral of health screenings and care, and prolonged need for childcare all increase the burden on women, in turn increasing the risk of postpartum depression and other maternal mental health conditions. The author states that postpartum depression is a severe form of clinical depression related to pregnancy and childbirth. Symptoms include severe mood swings and deep despondency as well as impulses that can compel a mother to harm themselves or their child. With 100,000 cases reported per year, adequate support and services are crucial. Evidence suggests that mothers also may hesitate to seek help because of stigmas associated with mental illness, as well as cultural expectations surrounding motherhood and the traditional roles of women. Women of color continue to be among the most affected, in part because many do not have health insurance or their insurance covers little or no mental health treatment. The author concludes that

prenatal symptoms of depression are twice as common for Black (19.9%) and Latina (17.1%) women compared to white (9.5%) and Asian/Pacific Islander (10.3%) women.

2) **BACKGROUND**. According to the Department of Public Health, one in five California women who recently gave birth experience symptoms of depression during or after pregnancy. That translates to about 100,000 women a year. All women are at risk for symptoms of perinatal depression; however, Black or Latina women, women who have low incomes or those who have experienced hardships in their childhood or during pregnancy are at heightened risk of having symptoms of depression. Depression during pregnancy is likely to lead to depression after the baby is born and is associated with serious risks to the mother and infant. Though not all women with symptoms of depression will be diagnosed with clinical depression, screening and appropriate care should be provided during prenatal care.

   a) **California Task Force on the Status of Maternal Mental Health Care**. In 2014, the California Legislative Women's Caucus introduced ACR 148 (Waldron), Chapter 96, Resolution Statutes of 2014, to explore untreated maternal mental health disorders and their impacts. ACR 148 passed and initiated a multidisciplinary Task Force representing stakeholders in mental health, medicine, public health, nursing, research, insurance, and hospitals. From 2015 to 2016, the California Task Force on the Status of Maternal Mental Health Care (the Task Force) examined existing barriers to screening and diagnosis, current treatment options, evidence-based treatments, and emerging treatments. In December 2016, the Task Force published "California's Strategic Plan: A catalyst for shifting statewide systems to improve care across California and beyond." The report included an overview of the current state and recommendations for California to improve maternal mental health care.

   b) **Doulas**. This bill expands upon the existing program by encouraging health plans and insurers to include doula coverage. Full-spectrum doulas are trained to provide nonclinical emotional, physical, and educational support to help women manage pain, fear, fatigue, and uncertainty throughout their pregnancy and postpartum; doulas do not provide medical care. In addition to supporting pregnant women, doulas also may support their partners and families. There is wide variation in the type of practice or specialization among doulas. They may practice prenatal only, birth-only, postpartum-only, miscarriage/abortion-only care, or a combination of these types of practices. Doulas who practice full-spectrum care provide educational and emotional support throughout the perinatal period (pregnancy through one year postpartum). Full spectrum and birth doulas are also trained to provide stillbirth and miscarriage support services. Doulas may practice part time or full time; independently, with a group, or through a hospital-based program; and may volunteer or require reimbursement for services.

   c) **Doula coverage under Medi-Cal.** The Department of Health Care Services (DHCS) announced that doula services will be added to the list of preventive services covered under the Medi-Cal program starting January 1, 2023. According to DHCS, pursuant to federal regulations, doula services must be recommended by a physician or other licensed practitioner. Additionally, to add these services, DHCS must submit a State Plan Amendment to the Centers for Medicare and Medicaid Services and receive federal approval.

d) Doula care pilot programs. In February 2022, Blue Shield of California announced the Maternal Child Health Equity initiative to help address disproportionate mortality rates among mothers and children, especially in underserved communities. Efforts of the initiative include working with community-based organizations, including Black Wellness and Prosperity Center, Diversity Uplift, and Her Health First to provide training curriculum for doulas and connecting mothers to family-centered services, emergency funds and maternal supplies. Doulas who are culturally congruent and trauma-informed to help ensure mothers are being heard, supported, and informed during the perinatal experience is included to help close racially biased maternal care gaps. Below are examples of other doula care pilot programs in California:

i) SisterWeb, San Francisco Community Doula Network. SisterWeb provides prenatal, birth, and postpartum care to low-income women of color in San Francisco in need of doula support. This program began providing services in 2019 and is a partnership between the San Francisco Department of Public Health and SisterWeb;

ii) HealthNet Community Doula Pilot Program (terminated). In 2019, the Association for Wholistic Maternal and Newborn Health partnered with HealthNet, in a pilot program to help improve birth outcomes for African American/Black women and infants in Los Angeles County. This pilot program's goal was to provide 150 African American/Black women enrolled in HealthNet Medi-Cal with 10 mostly African American/Black doulas in order to lower cesarean rates for their African American clients. The program provided services to 30 women during a six month period; and,

iii) Perinatal Equity Initiative grants. Planning Grants were awarded to 13 county health departments currently operating Black Infant Health programs for the purpose of improving black infant birth outcomes and reducing infant mortality. Counties are allowed to use this funding to establish doula care programs.

3) SUPPORT. The American College of Obstetricians and Gynecologists District IX writes that the COVID-19 pandemic has created unprecedented changes to everyday life for millions of Californians. The physical and mental health effects of the virus, as well as the multitude of tangential effects, are especially dangerous for women experiencing pregnancy and childbirth. Loss of income or family members, deferral of health screenings and care, and prolonged need for childcare all increase the burden on women, in turn increasing the risk of postpartum depression and other maternal mental health conditions. Perinatal depression, which includes major and minor depressive episodes that occur during pregnancy or in the first 12 months after delivery, is one of the most common medical complications during pregnancy and the postpartum period, affecting one in seven women. It is important to identify pregnant and postpartum women with depression because untreated perinatal depression and other mood disorders can have devastating effects. The COVID-19 pandemic has added a layer of complexity and isolation that could substantially increase the rates of postpartum depression and other maternal mental health conditions. It is vital to provide adequate for women's mental health during pregnancy and after childbirth.

4) OPPOSITION. The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans write that benefit mandates impose a one-size-fits-all approach to medical care and benefit design driven by the legislature, rather than consumer choice. State mandates increase costs of

coverage – especially for families who buy coverage without subsidies, small business owners who cannot or do not wish to self-insure, and California taxpayers who foot the bill for the state's share of those mandates.

5) **RELATED LEGISLATION**. AB 2199 (Wicks) establishes the Birthing Justice for California Families Pilot Project, which would include a 3-year grant program to provide grants to specified entities, including community-based groups, to provide doula full-spectrum care to members of communities with high rates of negative birth outcomes who are not eligible for Medi-Cal and incarcerated people. AB 2199 is pending in Senate Health Committee.

6) **PREVIOUS LEGISLATION**.

   a) AB 935 (Maienschein) of 2021 would have required health plans and health insurers, including Medi-Cal managed care plans, by July 1, 2022, to provide access to a telehealth consultation program that meets specified criteria and provides providers who treat children and pregnant and certain postpartum persons with access to a mental health consultation program, as specified. AB 935 was held in Assembly Appropriations Committee.

   b) AB 2193 (Maienschein), Chapter 755, Statutes of 2018, requires health plans and health insurers, by July 1, 2019, to develop, consistent with sound clinical principles and processes, a maternal mental health program, as specified. Requires, by July 1, 2019, a licensed health care practitioner who provides prenatal or postpartum care for a patient, to offer to screen or appropriately screen a mother for maternal mental health conditions.

   c) ACR 148 requests the California Maternal Mental Health Collaborative, a nonprofit organization, to establish a task force on the status of maternal mental health care.

REGISTERED SUPPORT / OPPOSITION:

Support

American College of Obstetricians and Gynecologists District
California Catholic Conference
DBSA California

Opposition

America's Health Insurance Plans
Association of California Life & Health Insurance Companies
California Association of Health Plans

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