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AMENDED IN ASSEMBLY FEBRUARY 19, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1621

Introduced by Assembly Members Figueroa and Leach
(Principal coauthor: Assembly Member Thomson)

(Principal coauthor: Senator Maddy)

(Coauthors: Assembly Members Bordonaro, Cunneen, and
Kuehl)

(Coauthor: Senator Watson)

January 5, 1998

An act to add Section 1367.63 to the Health and Safety Code, to add Section 10123.88 to the Insurance Code, and to add Section 14132.62 to the Welfare and Institutions Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1621, as amended, Figueroa. Health care coverage: reconstructive surgery.

Under existing law, health care service plans are subject to licensure and regulation by the Commissioner of Corporations. Under existing law, disability insurers are subject to licensure and regulation by the Insurance

Commissioner. Existing law establishes the Medi-Cal program to provide health care benefits to low-income individuals. Willful violation of the law regulating health care service plans is a crime.

This bill would require certain health care service plan contracts, and certain policies of disability insurance, issued, amended, renewed, or delivered on or after January 1, 1999, to cover reconstructive surgery, as defined, but would exclude coverage for cosmetic surgery, as defined. The bill would also require reconstructive surgery to be deemed medically necessary and to be covered under the Medi-Cal program.

By changing the definition of a crime relative to health care service plans, the bill would impose a state-mandated local program.

The bill would require the State Department of Health Services to report to the Legislature on the effect of these provisions on or before January 1, 2001.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.63 is added to the Health
- 2 and Safety Code, to read:
- 3 1367.63. (a) Every health care service plan contract,
- 4 except a specialized health care service plan contract,
- 5 that is issued, amended, renewed, or delivered in this
- 6 state on or after January 1, 1999, shall cover reconstructive
- 7 surgery, as defined in subdivision (c). Nothing in this
- 8 section shall be construed to require a plan to provide
- 9 coverage for cosmetic surgery, as defined in subdivision
- 10 (d).
- 11 (b) No individual, other than a licensed physician
- 12 competent to evaluate the specific clinical issues involved



1 in the care requested, may deny initial requests for
2 authorization of coverage for treatment pursuant to this
3 section. For a treatment authorization request submitted
4 by a podiatrist or *an* oral and maxillofacial surgeon, the
5 request may be reviewed by a similarly licensed
6 individual, competent to evaluate the specific clinical
7 issues involved in the care requested.

8 (c) “Reconstructive surgery” means medically
9 necessary and appropriate surgery performed to correct
10 or repair abnormal structures of the body caused by
11 congenital defects, developmental abnormalities,
12 trauma, infection, tumors, or disease to do either of the
13 following:

14 (1) To improve function.

15 (2) To create a normal appearance, to the extent
16 possible.

17 (d) “Cosmetic surgery” means surgery that is
18 performed to alter or reshape normal structures of the
19 body in order to improve appearance.

20 SEC. 2. Section 10123.88 is added to the Insurance
21 Code, to read:

22 10123.88. (a) Every policy of disability insurance
23 covering hospital, medical, or surgical expenses that is
24 issued, amended, renewed, or delivered in this state on or
25 after January 1, 1999, shall cover reconstructive surgery,
26 as defined in subdivision (c). Nothing in this section shall
27 be construed to require a policy to provide coverage for
28 cosmetic surgery, as defined in subdivision ~~(d)~~.

29 ~~This~~ (d). *This* section shall apply to accident only,
30 specified disease, hospital indemnity, Medicare
31 supplement, or long-term care health insurance policies,
32 subject to any general benefit or payment limitations.
33 However, these policies may not specifically exclude
34 coverage in cases of reconstructive surgery.

35 (b) No individual, other than a licensed physician
36 competent to evaluate the specific clinical issues involved
37 in the care requested, may deny initial requests for
38 authorization of coverage for treatment pursuant to this
39 section. For a treatment authorization request submitted
40 by a podiatrist or *an* oral and maxillofacial surgeon, the



1 request may be reviewed by a similarly licensed
2 individual, competent to evaluate the specific clinical
3 issues involved in the care requested.

4 (c) "Reconstructive surgery" means surgery
5 performed to correct or repair abnormal structures of the
6 body caused by congenital defects, developmental
7 abnormalities, trauma, infection, tumors, or disease to do
8 either of the following:

9 (1) To improve function.

10 (2) To create a normal appearance, to the extent
11 possible.

12 (d) Nothing in this section shall be construed to
13 require an insurer to provide coverage for cosmetic
14 surgery. "Cosmetic surgery" means surgery that is
15 performed to alter or reshape normal structures of the
16 body in order to improve the patient's appearance.

17 SEC. 3. Section 14132.62 is added to the Welfare and
18 Institutions Code, to read:

19 14132.62. (a) Reconstructive surgery shall be
20 covered under this chapter, as defined in subdivision (c).
21 Nothing in this section shall be construed to require a plan
22 to provide coverage for cosmetic surgery, as defined in
23 subdivision (d).

24 (b) No individual, other than a licensed physician
25 competent to evaluate the specific clinical issues involved
26 in the care requested, may deny initial requests for
27 authorization of coverage for treatment pursuant to this
28 section. For a treatment authorization request submitted
29 by a podiatrist or *an* oral and maxillofacial surgeon, the
30 request may be reviewed by a similarly licensed
31 individual competent to evaluate the specific clinical
32 issues involved in the care requested.

33 (c) "Reconstructive surgery" means medically
34 necessary and appropriate surgery performed on
35 abnormal structures of the body caused by congenital
36 defects, developmental abnormalities, trauma, infection,
37 tumors, or disease to do either of the following:

38 (1) To improve function.

39 (2) To create a normal appearance, to the extent
40 possible.



1 (d) “Cosmetic surgery” means surgery that is
2 performed to alter or reshape normal structures of the
3 body in order to improve appearance.

4 SEC. 4. *Relative to the issue of medically necessary*
5 *reconstructive surgery, the State Department of Health*
6 *Services shall monitor the effect of the definition of*
7 *reconstructive surgery, as set forth in Sections 1 to 3,*
8 *inclusive, of this act, to determine whether, in the general*
9 *opinion of reconstructive surgeon specialists, the effect of*
10 *the definition permits surgeries that are excessive and not*
11 *medically necessary to return patients to a normal*
12 *appearance. The department shall report its results to the*
13 *Legislature on or before January 1, 2001.*

14 SEC. 5. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution because the only costs that may be incurred
17 by a local agency or school district will be incurred
18 because this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition
22 of a crime within the meaning of Section 6 of Article
23 XIII B of the California Constitution.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.

