

Introduced by Senator Rainey

December 7, 1998

An act to amend Section 1367.65 of, and to repeal and add Section 1367.6 of, the Health and Safety Code, and to repeal and add Section 10123.8 of the Insurance Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as introduced, Rainey. Health care benefits: breast cancer services.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Existing law provides for the licensure and regulation of disability insurers that cover hospital, medical, or surgical expenses by the Insurance Commissioner. Existing law provides that a willful violation of the law regulating health care service plans is punishable as either a felony or a misdemeanor.

Under existing law, every health care service plan contract and every group policy of disability insurance that provides for the surgical procedure known as a mastectomy that is issued, amended, delivered, or renewed in this state on or after July 1, 1980, is required to include coverage for prosthetic devices or reconstructive surgery, subject to specified conditions.

This bill would, instead, require health care service plan contracts and certain policies of disability insurance that are issued, amended, delivered, or renewed on or after January 1, 2000, to provide coverage for screening for, diagnosis of, and



treatment for, breast cancer. The bill would prohibit the denial of enrollment or coverage solely due to a family history of breast cancer, or because of one or more diagnostic procedures for breast disease where breast cancer has not developed or been diagnosed. The bill would require that screening efficacy, including the modality of diagnostic interventions, be exclusively the domain of the patient's participating physician, and would prohibit a requirement that the physician obtain prior authorization for those procedures.

Existing law requires every individual or group health care service plan that is issued, amended, or renewed after January 1, 1991, and that includes coverage for mastectomy and prosthetic devices and reconstructive surgery incident to mastectomy to be deemed to provide coverage for mammography for screening or diagnosis purposes upon referral by a participating nurse practitioner, participating certified nurse midwife, or participating physician.

This bill would, instead, require a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2000, to provide coverage for mammography for screening or diagnostic purposes upon referral by a participating nurse practitioner, participating certified nurse midwife, or participating physician, providing care to the patient and operating within the scope of practice provided under existing law.

Since a willful violation of the bill's provisions applicable to health care service plans would be a crime, this bill would impose a state-mandated local program by imposing a new crime.

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 1367.6 of the Health and Safety
2 Code is repealed.

3 ~~1367.6. Every health care service plan contract which~~
4 ~~provides for the surgical procedure known as a~~
5 ~~mastectomy and which is issued, amended, delivered or~~
6 ~~renewed in this state on or after July 1, 1980, shall include~~
7 ~~coverage for prosthetic devices or reconstructive surgery~~
8 ~~to restore and achieve symmetry for the patient incident~~
9 ~~to the mastectomy. Coverage for prosthetic devices and~~
10 ~~reconstructive surgery shall be subject to the deductible~~
11 ~~and coinsurance conditions applied to the mastectomy~~
12 ~~and all other terms and conditions applicable to other~~
13 ~~benefits. As used in this section, "mastectomy" means the~~
14 ~~removal of all or part of the breast for medically necessary~~
15 ~~reasons, as determined by a licensed physician and~~
16 ~~surgeon.~~

17 ~~Any provision in any contract issued, amended,~~
18 ~~delivered or renewed in this state on or after July 1, 1980,~~
19 ~~which is in conflict with this section shall be of no force~~
20 ~~or effect.~~

21 ~~As used in this section, "prosthetic devices" means and~~
22 ~~includes the provision of initial and subsequent prosthetic~~
23 ~~devices pursuant to an order of the patient's physician~~
24 ~~and surgeon.~~

25 SEC. 2. Section 1367.6 is added to the Health and
26 Safety Code, to read:

27 1367.6. (a) Every health care service plan contract,
28 except a specialized health care service plan contract,
29 that is issued, amended, delivered, or renewed on or after
30 January 1, 2000, shall provide coverage for screening for,
31 diagnosis of, and treatment for, breast cancer.

32 (b) No health care service plan contract shall deny
33 enrollment or coverage to an individual solely due to a
34 family history of breast cancer, or who has had one or
35 more diagnostic procedures for breast disease but has not
36 developed or been diagnosed with breast cancer.

37 (c) Screening efficacy, including the modality of
38 diagnostic interventions, shall be exclusively the domain



1 of the patient's participating physician. No plan may
2 require that physician to obtain prior authorization for
3 those procedures.

4 (d) Treatment for breast cancer under this section
5 shall include coverage for prosthetic devices or
6 reconstructive surgery to restore and achieve symmetry
7 for the patient incident to a mastectomy. Coverage for
8 prosthetic devices and reconstructive surgery shall be
9 subject to the deductible and coinsurance conditions
10 applied to the mastectomy and all other terms and
11 conditions applicable to other benefits.

12 (e) As used in this section, "mastectomy" means the
13 removal of all or part of the breast for medically necessary
14 reasons, as determined by a licensed physician and
15 surgeon.

16 (f) As used in this section, "prosthetic devices" means
17 the provision of initial and subsequent devices pursuant
18 to an order of the patient's physician and surgeon.

19 SEC. 3. Section 1367.65 of the Health and Safety Code
20 is amended to read:

21 1367.65. (a) On or after January 1, 1991, ~~every~~
22 ~~individual or group~~ 2000, every health care service plan
23 contract, *except a specialized health care service plan*
24 contract ~~which, that is issued, amended, or renewed and~~
25 ~~which includes coverage for mastectomy and prosthetic~~
26 ~~devices and reconstructive surgery incident to~~
27 ~~mastectomy described in Section 1367.6~~ shall also be
28 deemed to provide coverage for mammography for
29 screening or diagnostic purposes upon referral by a
30 participating nurse practitioner, participating certified
31 nurse midwife, or participating physician, providing care
32 to the patient and operating within the scope of practice
33 provided under existing law.

34 (b) Nothing in this section shall be construed to
35 establish a new mandated benefit or to prevent
36 application of deductible or copayment provisions in a
37 policy or plan, nor shall this section be construed to
38 require that a policy or plan be extended to cover any
39 other procedures under an individual or a group health
40 care service plan contract. Nothing in this section shall be



1 construed to authorize a plan member to receive the
2 services required to be covered by this section if those
3 services are furnished by a nonparticipating provider,
4 unless the plan member is referred to that provider by a
5 participating physician, nurse practitioner, or certified
6 nurse midwife providing care. ~~The Legislature intends in
7 this section to provide that mammography services are
8 deemed to be covered if the policy or plan includes
9 coverage for mastectomy and reconstructive surgery.~~

10 SEC. 4. Section 10123.8 of the Insurance Code is
11 repealed.

12 ~~10123.8. Every group policy of disability insurance or
13 self-insured employee welfare benefit plan which
14 provides for the surgical procedure known as a
15 mastectomy and which is issued, amended, delivered or
16 renewed in this state on or after July 1, 1980, shall include
17 coverage for prosthetic devices or reconstructive surgery
18 to restore and achieve symmetry for the patient incident
19 to the mastectomy. Coverage for prosthetic devices and
20 reconstructive surgery shall be subject to the deductible
21 and coinsurance conditions applied to the mastectomy,
22 and all other terms and conditions applicable to other
23 benefits. As used in this section, "mastectomy" means the
24 removal of all or part of the breast for medically necessary
25 reasons, as determined by a licensed physician and
26 surgeon.~~

27 ~~Any provision in any contract issued, amended,
28 delivered or renewed in this state on or after July 1, 1980,
29 which is in conflict with this section shall be of no force
30 or effect.~~

31 ~~As used in this section, "prosthetic devices" means and
32 includes the provision of initial and subsequent prosthetic
33 devices pursuant to an order of the patient's physician
34 and surgeon.~~

35 SEC. 5. Section 10123.8 is added to the Insurance
36 Code, to read:

37 10123.8. (a) Every policy of disability insurance that
38 provides coverage for hospital, medical, or surgical
39 expenses, that is issued, amended, delivered, or renewed
40 on or after January 1, 2000, shall provide coverage for



1 screening for, diagnosis of, and treatment for, breast
2 cancer.

3 (b) No policy of disability insurance that provides
4 coverage for hospital, medical, or surgical expenses shall
5 deny enrollment or coverage to an individual solely due
6 to a family history of breast cancer, or who has had one or
7 more diagnostic procedures for breast disease but has not
8 developed or been diagnosed with breast cancer.

9 (c) Screening efficacy, including the modality of
10 diagnostic interventions, shall be exclusively the domain
11 of the patient's participating physician. No disability
12 insurer may require that physician to obtain prior
13 authorization for those procedures.

14 (d) Treatment for breast cancer under this section
15 shall include coverage for prosthetic devices or
16 reconstructive surgery to restore and achieve symmetry
17 for the patient incident to a mastectomy. Coverage for
18 prosthetic devices and reconstructive surgery shall be
19 subject to the deductible and coinsurance conditions
20 applied to the mastectomy and all other terms and
21 conditions applicable to other benefits.

22 (e) As used in this section, "mastectomy" means the
23 removal of all or part of the breast for medically necessary
24 reasons, as determined by a licensed physician and
25 surgeon.

26 (f) As used in this section, "prosthetic devices" means
27 the provision of initial and subsequent devices pursuant
28 to an order of the patient's physician and surgeon.

29 (g) This section shall not apply to accident-only,
30 Medicare supplement, or long-term care health
31 insurance policies referred to in Section 10198.6, nor to
32 policies or certificates of specified disease or hospital
33 confinement indemnity plans certified pursuant to
34 Section 10198.61.

35 SEC. 6. No reimbursement is required by this act
36 pursuant to Section 6 of Article XIII B of the California
37 Constitution because the only costs that may be incurred
38 by a local agency or school district will be incurred
39 because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

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