

ASSEMBLY BILL

No. 2234

Introduced by Assembly Members Portantino and Wolk
(Principal coauthor: Senator Negrete McLeod)
(Coauthors: Assembly Members Berg and Dymally)

February 20, 2008

An act to amend Section 1367.65 of the Health and Safety Code, and to amend Section 10123.81 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2234, as introduced, Portantino. Health care coverage: breast conditions.

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. Under existing law, 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, is deemed 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. Under existing law, an individual or group policy of disability insurance or self-insured employee welfare benefit plan that is issued, amended, delivered, or renewed on or after January 1, 2000, is deemed to provide specified coverage based upon age 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.

This bill would provide that such plans or policies issued, amended, delivered, or renewed on and after January 1, 2009, shall be deemed to provide coverage for tests necessary for screening or diagnoses, as specified, of breast conditions upon referral of 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 and in accordance with national guidelines. The bill would also require these plans and insurers to send female enrollees or policyholders a written notice, as specified, regarding eligibility for tests for screening or diagnosis of breast conditions.

Because this bill would specify an additional requirement for a health care service plan, the willful violation of which would be a crime, it would impose a state-mandated local program.

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. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) It is the intent of the Legislature to ensure that all women
- 4 have access to medically appropriate breast cancer screening and
- 5 diagnostic tests, especially those women who possess risk factors,
- 6 including any of the following:
- 7 (1) A woman who has had a personal history of breast cancer,
- 8 including ductal carcinoma in situ (DCIS).
- 9 (2) A woman who has been identified as having the BRCA1 or
- 10 BRCA2 gene mutation or is a first degree relative of someone
- 11 identified as having the BRCA1 or BRCA2 gene mutation.
- 12 (3) A woman who has two or more first degree relatives with
- 13 breast cancer diagnosed before 50 years of age.

1 (4) A woman who has been diagnosed with Li-Fraumeni
2 syndrome (LFS), Cowden syndrome, or Bannayan-Riley-Ruvalcaba
3 syndrome (BRRS), or who has a first degree relative who has been
4 diagnosed with one of those syndromes.

5 (5) A woman identified with a lifetime risk of breast cancer of
6 20 percent or greater, as defined by the BRCAPRO model or other
7 models that are largely dependent upon family history.

8 (6) A woman who has experienced radiation to her chest
9 between 10 to 30 years of age, inclusive.

10 (7) A woman who has been diagnosed with lobular carcinoma
11 in situ (LCIS) or atypical lobular hyperplasia (ALH).

12 (8) A woman who has been diagnosed with atypical ductal
13 hyperplasia (ADH).

14 (9) A woman with heterogeneously or extremely dense breast
15 tissue on mammography.

16 (b) In order to protect the health of California citizens, breast
17 cancer diagnostic methods such as mammography, magnetic
18 resonance imaging (MRI), and ultrasound must be provided. These
19 diagnostic treatment tools, when used together in accordance with
20 nationally accepted guidelines, offer the best chance for the
21 detection and timely, cost-effective treatment of breast cancer.

22 SEC. 2. Section 1367.65 of the Health and Safety Code is
23 amended to read:

24 1367.65. (a) On or after January 1, 2000, every health care
25 service plan contract, except a specialized health care service plan
26 contract, that is issued, amended, delivered, or renewed shall be
27 deemed to provide coverage for mammography for screening or
28 diagnostic purposes upon referral by a participating nurse
29 practitioner, participating certified nurse midwife, or participating
30 physician, providing care to the patient and operating within the
31 scope of practice provided under existing law.

32 (b) *On or after January 1, 2009, every health care service plan*
33 *contract, except for a specialized health care service plan contract,*
34 *that is issued, amended, delivered, or renewed shall be deemed to*
35 *provide coverage for tests necessary for screening or diagnoses*
36 *of breast conditions, upon referral. Necessary tests shall encompass*
37 *those tests consistent with national guidelines and shall include,*
38 *but not be limited to, mammography, magnetic resonance imaging,*
39 *ultrasound, and computer-aided detection. Referral shall be made*
40 *by a participating nurse practitioner, participating certified nurse*

1 midwife, or participating physician, providing care to the patient
2 and operating within the scope of practice provided under existing
3 law and in accordance with national guidelines.

4 ~~(b)~~

5 (c) Nothing in this section shall be construed to prevent
6 application of copayment or deductible provisions in a plan, nor
7 shall this section be construed to require that a plan be extended
8 to cover any other procedures under an individual or a group health
9 care service plan contract. Nothing in this section shall be construed
10 to authorize a plan enrollee to receive the services required to be
11 covered by this section if those services are furnished by a
12 nonparticipating provider, unless the plan enrollee is referred to
13 that provider by a participating physician, nurse practitioner, or
14 certified nurse midwife providing care.

15 (d) *A health care service plan subject to this section shall send*
16 *a female enrollee a written notice, during the calendar year in*
17 *which national guidelines indicate she should start undergoing*
18 *tests for screening or diagnosis of breast conditions, notifying her*
19 *that she is eligible for testing.*

20 SEC. 3. Section 10123.81 of the Insurance Code is amended
21 to read:

22 10123.81. (a) On or after January 1, 2000, every individual
23 or group policy of disability insurance or self-insured employee
24 welfare benefit plan that is issued, amended, or renewed, shall be
25 deemed to provide coverage for at least the following, upon the
26 referral of a nurse practitioner, certified nurse midwife, or
27 physician, providing care to the patient and operating within the
28 scope of practice provided under existing law for breast cancer
29 screening or diagnostic purposes:

30 ~~(a)~~

31 (1) A baseline mammogram for women age 35 to 39, inclusive.

32 ~~(b)~~

33 (2) A mammogram for women age 40 to 49, inclusive, every
34 two years or more frequently based on the women’s physician’s
35 recommendation.

36 ~~(c)~~

37 (3) A mammogram every year for women age 50 years and
38 over.

39 (b) *On or after January 1, 2009, every individual or group policy*
40 *of health insurance or self-insured employee welfare benefit plan*

1 *that is issued, amended, delivered, or renewed, shall be deemed*
2 *to provide coverage for tests necessary for screening or diagnoses*
3 *of breast conditions, upon referral. Necessary tests shall encompass*
4 *those tests consistent with national guidelines and shall include,*
5 *but not be limited to, mammography, magnetic resonance imaging,*
6 *ultrasound, and computer-aided detection. Referral shall be made*
7 *by a participating nurse practitioner, participating certified nurse*
8 *midwife, or participating physician, providing care to the patient*
9 *and operating within the scope of practice provided under existing*
10 *law and in accordance with national guidelines.*

11 **Nothing**

12 *(c) Nothing* in this section shall be construed to require an
13 individual or group policy to cover the surgical procedure known
14 as mastectomy or to prevent application of deductible or copayment
15 provisions contained in the policy or plan, nor shall this section
16 be construed to require that coverage under an individual or group
17 policy be extended to any other procedures.

18 **Nothing**

19 *(d) Nothing* in this section shall be construed to authorize an
20 insured or plan member to receive the coverage required by this
21 section if that coverage is furnished by a nonparticipating provider,
22 unless the insured or plan member is referred to that provider by
23 a participating physician, nurse practitioner, or certified nurse
24 midwife providing care.

25 *(e) A disability insurer or self-insured employee welfare benefit*
26 *plan subject to this section shall send a female policyholder a*
27 *written notice, during the calendar year in which national*
28 *guidelines indicate she should start undergoing tests for screening*
29 *or diagnosis of breast conditions, notifying her that she is eligible*
30 *for testing.*

31 *(f) This section shall not apply to Medicare supplement,*
32 *vision-only, dental-only, or Champus-supplement insurance, or*
33 *to hospital indemnity, accident-only, or specified disease insurance*
34 *that does not pay benefits on a fixed-benefit, cash payment only*
35 *basis.*

36 SEC. 4. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

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

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