

17B: 26-2.2 to 17B:26-2.8

LEGISLATIVE HISTORY CHECKLIST

HJSA 17B:26-2.2 to 17B:26-2.8 (Insurance - Individual policies-- second opinion for elective surgery)

LAWS OF 1979 CHAPTER 328

Bill No. A1111

Sponsor(s) Visotcky and others

Date Introduced April 20, 1978

Committee: Assembly Banking and Insurance

Senate Labor; Industry and Professions

Amended during passage Yes according to Governor's recommendations Amendments denoted by asterisks
Date of Passage: Assembly Feb. 22, 1979 Re-enacted Nov. 26, 1979
Senate June 14, 1979 Re-enacted Dec. 10, 1979

Date of approval Jan. 21, 1980

Following statements are attached if available:

Sponsor statement Yes
Committee Statement: Assembly Yes
Senate Yes
Fiscal Note No
Veto message Yes
Message on signing No

Following were printed:

Reports No
Hearings No

9/3/78

3 medical opinion and for any related laboratory, X-ray, and surgical
 4 diagnostic tests. Such contract shall also provide for the payment
 5 of a third medical opinion at the discretion of the subscriber in the
 6 event that the first two medical opinions conflict.】*

1 *2. Any insurer issuing an individual insurance policy in
 2 accordance with chapter 26 of Title 17B of the New Jersey Statutes
 3 which provides coverage of surgical operations performed on a
 4 person while confined in a hospital as an inpatient shall make avail-
 5 able under the policy benefits for a second surgical opinion for elec-
 6 tive surgical procedures which would require inpatient admission
 7 to a hospital.

1 3. Benefits for a second surgical opinion shall include payment
 2 for the second surgical opinion services of ***【a qualified】***
 3 ***an eligible*** physician and for essential laboratory and X-ray
 4 services incidental thereto, either as a benefit under the individual
 5 policy or, at the insurer's option, as an additional benefit offered
 6 to the prospective policyholder at issue of a policy. Benefit pay-
 7 ments may be limited to second surgical opinion services of
 8 ***【qualified】*** ***eligible*** physicians who have agreed to
 9 participate in an insurer's second surgical opinion program. The
 10 benefits shall be reasonably related to amounts payable under the
 11 policy for covered surgical procedures.

1 4. If a second surgical opinion does not confirm that a proposed
 2 elective surgical procedure is medically advisable, benefits must be
 3 provided under the policy for a third surgical opinion in the same
 4 manner as for the second opinion.

1 5. The second surgical opinion benefit provisions of a policy may
 2 exclude benefits while the patient is confined in a hospital as an
 3 inpatient, any surgical procedures not covered by the policy and
 4 surgical procedures in the following categories: cosmetic surgery,
 5 pregnancy-related surgery, dental surgery, podiatric surgery, and
 6 sterilization.

1 6. If a physician who furnishes a second or third surgical opinion
 2 also performs the surgical procedure, the policy need not provide
 3 payment for the second or third opinion services of that physician.*

1 *【3.】* *7.* This act shall apply to all contracts in which the in-
 2 surer has reserved the right to change the premium.

1 *【4.】* *8.* This act shall take effect *【90】* *180* days after
 2 enactment.

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1111

STATE OF NEW JERSEY

INTRODUCED APRIL 20, 1978

By Assemblymen VISOTCKY, LESNIAK, KOZLOSKI, Assemblywoman GARVIN, Assemblymen HOLLENBECK and CONTILLO

Referred to Committee on Banking and Insurance

AN ACT requiring ***[a second medical opinion in all elective surgical care as a precondition to payment for such care]*** **insurers to make benefits available for second surgical opinions** and supplementing chapter 26 of Title 17B of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of*
2 *New Jersey:*

1 ***[1. Any insurer providing payment for medical services pur-**
2 **suant to chapter 26 of Title 17B of the New Jersey Statutes shall**
3 **require a second medical opinion in all elective surgical care as a**
4 **precondition to payment for such care.]***

5 *1. *As used in this act:*

6 a. *“Elective surgical procedure” means any nonemergency*
7 *surgical procedure which may be scheduled at the convenience of*
8 *the patient or the surgeon without jeopardizing the patient’s life*
9 *or causing serious impairment to the patient’s bodily functions.*

10 b. *“Second surgical opinion” means an opinion of *****[a quali-***
11 *fied]*** ****an eligible*** physician based on that physician’s*
12 *examination of a person for the purpose of evaluating the medical*
13 *advisability of that person undergoing an elective surgical pro-*
14 *cedure. The examinations must be performed after another physician*
15 *licensed to practice medicine and surgery has proposed to perform*
16 *such surgical procedure on the person but prior to the performance*
17 *of such surgical procedure.**

18 c. *“*****[Qualified]***** **Eligible***** physician” means a phy-*
19 *sician licensed to practice medicine and surgery who ****holds**** the*
20 *rank of Diplomate of an American Board (M.D.) or Certified*
21 *Specialist (D.O.) in the surgical *****or medical***** specialty for*
22 *which surgery is proposed.**

1 ***[2. Any individual contract entered into by any such insurer**
2 **with any insured shall provide for the payment of such second**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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Referred to Committee on Banking and Insurance

AN ACT requiring a second medical opinion in all elective surgical care as a precondition to payment for such care and supplementing chapter 26 of Title 17B of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Any insurer providing payment for medical services pursuant
2 to chapter 26 of Title 17B of the New Jersey Statutes shall re-
3 quire a second medical opinion in all elective surgical care as a
4 precondition to payment for such care.

1 2. Any individual contract entered into by any such insurer with
2 any insured shall provide for the payment of such second medical
3 opinion and for any related laboratory, X-ray, and surgical
4 diagnostic tests. Such contract shall also provide for the payment
5 of a third medical opinion at the discretion of the subscriber in the
6 event that the first two medical opinions conflict.

1 3. This act shall apply to all contracts in which the insurer has
2 reserved the right to change the premium.

1 4. This act shall take effect 90 days after enactment.

STATEMENT

Recent governmental and medical studies indicate that surgeons are performing thousands, if not millions of unnecessary operations in the United States each year at tremendous financial cost and some loss in lives.

It has been determined that a second medical opinion prior to any elective surgical procedure greatly minimizes the risk of unnecessary surgery and acts as an important cost-saving mechanism for insurance providers.

This bill, a companion bill to Assembly No. 1110 and Assembly No. 1112, requires a second medical opinion in all elective surgical care as a precondition to reimbursement for such care and directs insurance providers to provide for the payment of the second medical opinion.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1111

STATE OF NEW JERSEY

DATED: JANUARY 25, 1979

These bills provide that insurers must require a second medical opinion in all elective surgical care as a precondition to payment for such care. Contracts would also be required to provide for payment for the second opinion and for any related laboratory, X-ray, and surgical diagnostic tests.

This legislation is designed to be cost-effective in that it would theoretically work to reduce elective (i.e., non-emergency) surgery which may be unnecessary.

There has been in the last several years increasing concern about the performance of unnecessary surgery. The surgical rate in the United States, for example, is double the rate of Great Britain. Rates of surgery in prepaid health plans such as Health Maintenance Organizations are 2-5 times less than under regular third-party coverage. Efforts have been made to establish effective utilization review plans to try to cut down the amount of unnecessary surgery; most of these, however, are retrospective in nature and some, such as hospital utilization review committees, are only capable of disconcerting broad patterns of misutilization.

A program was established in New York in 1972 in several union welfare funds. The funds, in cooperation with the Cornell University Medical College, established a "grid" of surgical consultants who were board-certified specialists. Roughly 25% of the patients who sought such a consultation were advised not to have surgery in both programs. The estimated cost to operate the two programs was \$75,000.00 and the estimated saving as a result of surgery which was not performed as a result of the second opinion was \$582,000.00. Some of the patients decided to have surgery despite a negative second opinion.

Blue Shield in New York and Blue Shield in New Jersey have both begun a voluntary second opinion program. In New Jersey, Blue Shield will pay up to \$50.00 as a consultant's fee to a board-certified specialist, and will pay for diagnostic tests and X-rays. Some kinds of surgery, such as obstetrical, cosmetic, and pediatric, are excluded from the program. There are no estimates as yet as to the cost-effectiveness of the program.

As drafted, the sponsor has chosen to make the plan mandatory as enhancing its cost-effectiveness. The mandatory programs, as contrasted to the voluntary programs, are believed by some proponents to be more effective because it is the only way of insuring review of all cases of elective surgery. The Banking and Insurance Committee, however, has amended the legislation to make the plan optional. The committee has also excluded from the program certain type of discretionary surgery and other surgery for which a second opinion would be inappropriate.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1111

[OFFICIAL COPY REPRINT]

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 24, 1979

The Assembly Banking and Insurance Committee statement adequately explains the provisions of the bill.

The Senate Labor, Industry and Professions Committee made a technical amendment to the bill.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 19, 1979

ASSEMBLY BILL NO. 1111 (2nd OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1111 (2nd OCR) with my objections, for reconsideration.

This bill would require insurers issuing individual insurance policies to provide second medical opinion benefits. The program would pay for expenses related to a second medical opinion on the advisability of elective surgical procedures.

I support the expansion of second medical opinion programs. When properly utilized, they can prevent unnecessary surgery and reduce health care costs. I am returning the bill to you because I believe the definition of qualified physician to be too narrow. Internists should be permitted to render second opinions in appropriate cases. In addition, the term "eligible" should be substituted for "qualified". A physician who is not board certified is not an unqualified physician.

Accordingly, I herewith return Assembly Bill No. 1111 (2nd OCR) with my recommendations for reconsideration and recommend that it be amended as follows:

- Page 1, section 1, line 10: Omit "a qualified" and insert "an eligible".
- Page 1, section 1, line 18: Omit "Qualified" and insert "Eligible".
- Page 1, section 1, line 21: After "gical", insert "or medical".
- Page 2, section 3, line 2: Omit "a qualified" and insert "an eligible".
- Page 2, section 3, line 7: Omit "qualified" and insert "eligible".

Respectfully,

/s/ Brendan Byrne
GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY