

17:48A-6.1 to 17:48A-6.7

LEGISLATIVE HISTORY CHECKLIST

(Insurance - Group or individual--
second opinion for elective surgery)

WISA 17:48A-6.1 to 17:48A-6.7

LAWS OF 1979

CHAPTER 327

Bill No. A1110

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 ~~xx~~

Committee Statement: Assembly Yes ~~xx~~

Senate Yes ~~xx~~

Fiscal Note ~~Yes~~ No

Veto message Yes ~~xx~~

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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ASSEMBLY, No. 1110

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]*** *concerning second surgical opinions* and supplementing chapter 48A of Title 17 of the Revised Statutes.

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

1 ***[1.** Any corporation providing payment for medical services
2 pursuant to chapter 48A of Title 17 of the Revised 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 or*
9 *causing serious impairment to the patient’s bodily functions.*

10 b. *“Second surgical opinion” means an opinion of *****[a quali-***
11 *fed]*** ***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 proce-*
14 *dure. The examination must be performed after another physician*
15 *licensed to practice medicine and surgery has recommended such*
16 *surgical procedure, but prior to **the performance of** such*
13A *surgical procedure.*

17 c. *“*****[Qualified]***** ***Eligible*** physician” means a physi-*
18 *cian licensed to practice medicine and surgery who holds the rank*
19 *of Diplomate of an American Board (M.D.) or Certified Specialist*
20 *(D.O.) in the surgical ***or medical*** specialty for which surgery*
21 *is proposed. The program may be limited to *****[qualified]******
22 ****eligible*** physicians who have agreed to participate in the*
23 *corporation’s second surgical opinion program.**

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

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

7 *2. Any corporation issuing a group or individual contract in
 8 accordance with chapter 48A of Title 17 of the Revised Statutes,
 9 which provides payment for surgical services rendered to a person
 10 while confined in a hospital as an inpatient, shall make avail-
 11 able****[**, if requested by the covered person,**]**** benefits for a second
 12 surgical opinion for elective surgical procedures, which would re-
 13 quire an inpatient admission to a hospital. **In the case of a group
 14 contract, benefits for a second surgical opinion shall be available
 15 only if requested by the group policyholder.**

1 **3. A second surgical opinion program shall provide for pay-
 2 ment for the second surgical opinion of *****[a qualified]***** **an
 3 eligible*** physician and for essential laboratory and X-ray ser-
 4 vices incidental thereto.

1 4. If a second surgical opinion does not confirm that the pro-
 2 posed elective surgical procedure is medically advisable, the pro-
 3 gram shall cover a third surgical opinion in the same manner as
 4 the second opinion.**

1 ****[3.]**** **5.** A second surgical opinion program may exclude
 2 benefits while a patient is confined in a hospital as an inpatient, any
 3 surgical procedure not covered by the group or individual contract,
 4 and surgical procedures in the following categories: cosmetic
 5 surgery, pregnancy-related surgery, dental surgery, podiatric
 6 surgery, and sterilizations.

1 ****[4.]**** **6.** If a physician who furnishes a second or third
 2 surgical opinion also performs the surgical procedure, the second
 3 surgical opinion program need not provide payment for the second
 4 or third opinion services.*

1 ***[3.]*** ****[5.]**** **7.** This act shall apply to all contracts in
 2 which the corporation has reserved the right to change the premium.

1 ***[4.]*** ****[6.]**** **8.** This act shall take effect ***[90]*** *180*
 2 days after enactment.

ASSEMBLY, No. 1110

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 and supplementing chapter 48A of Title 17 of the Revised Statutes.

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

1 1. Any corporation providing payment for medical services
2 pursuant to chapter 48A of Title 17 of the Revised Statutes shall
3 require a second medical opinion in all elective surgical care as a
4 precondition to payment for such care.

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

1 3. This act shall apply to all contracts in which the corporation
2 has 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 Bill No. 1111 and Assembly Bill 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. 1110

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., nonemergency) 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 two - five 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. 1110

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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 amended the bill to require the corporation to provide a second opinion benefit to all individual contract holders (individual subscribers enrolled through small groups) and all direct pay (non-group) subscribers. However, the proposed amendment would not mandate that benefits be provided to group contract holders unless the policyholder, who is the employer in experience rated cases, requests such coverage. To do otherwise would create problems with national accounts by providing New Jersey employees with a benefit not available in many other states.

The Senate committee also amended the bill to allow for payment of the essential diagnostic tests in connection with a second opinion and also provide for payment of a third opinion consultation when the patient remains in doubt as to appropriate action following a non-confirmed second opinion. These provisions are in Assembly Bill No. 1111 and Assembly Bill No. 1112.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT
ASSEMBLY BILL NO. 1110 (2nd OCR)

November 19, 1979

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1110 (2nd OCR) with my objections, for reconsideration.

This bill would require medical service corporations to provide second medical opinion benefits to individual subscribers and to group subscribers when requested by the group policyholder. 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. 1110 (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 17: Omit "Qualified" and insert "Eligible".
- Page 1, section 1, line 20: After "surgical", insert "or medical".
- Page 1, section 1, line 21: Omit "qualified" and insert "eligible".
- Page 2, section 3, line 2: Omit "a qualified" and insert "an eligible".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY