

17B:27-46.2 to 17B:27-46.9

LEGISLATIVE HISTORY CHECKLIST

WISA 17B:27-46.2 to 17B:27-46.9 (Insurance - Group - Second opinion for elective surgery)

LAWS OF 1979 CHAPTER 329

Bill No. A1112

Sponsor(s) Visotcky and others

Date Introduced April 20, 1978

Committee: Assembly Banking and Insurance

Senate Labor, Insurance and Professions

Amended during passage Yes  
according to Governor's recommendations

Amendments during passage denoted by asterisks  
Re-enacted Nov. 26, 1979

Date of Passage: Assembly Feb. 22, 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	<input checked="" type="checkbox"/>
Committee Statement: Assembly	Yes	<input checked="" type="checkbox"/>
Senate	Yes	<input checked="" type="checkbox"/>
Fiscal Note	<input checked="" type="checkbox"/>	No
Veto message	Yes	<input checked="" type="checkbox"/>
Message on signing	<input checked="" type="checkbox"/>	No
Following were printed:		
Reports	<input checked="" type="checkbox"/>	No
Hearings	<input checked="" type="checkbox"/>	No

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ASSEMBLY, No. 1112

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 second surgical opinion programs available\** and supplementing chapter 27 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 pur-**  
2 **suant to chapter 27 of Title 17B of the New Jersey Statutes shall**  
3 **require a second medical opinion in all elective surgical care as**  
4 **a precondition to payment for such care.]\***

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

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

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

14 c. *“**\*\*\*[Qualified]\*\*\* **\*\*\*Eligible\*\*\*** physician” means a physi-***  
15 *cian licensed to practice medicine and surgery who holds the rank of*  
16 *Diplomate of an American Board (M.D.) or Certified Specialist*  
17 *(D.O.) in the surgical **\*\*\*or medical\*\*\*** specialty for which surgery*  
18 *is proposed.\**

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 group contract entered into by such insurer with any**  
 2 **insured shall provide for the payment of such second medical**  
 3 **opinion and for any related laboratory, X-ray, and surgical diag-**  
 4 **nostic tests. Such contract shall also provide for the payment of**  
 5 **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 a group insurance policy in accordance  
 2 with chapter 27 of Title 17B of the New Jersey Statutes which  
 3 provides coverage of surgical operations performed on a person  
 4 while confined in a hospital as an inpatient shall make available,  
 5 and if requested by the group policyholder, provide a second surgi-  
 6 cal opinion program for elective surgical procedures which would  
 7 require inpatient admission to a hospital for persons insured under  
 8 the group policy for such surgical coverage.

1 3. A second surgical opinion program shall provide for 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 group pol-  
 5 icy or, at the insurer's option, by a separate arrangement with  
 6 the group policyholder. The program may be limited to **\*\*\*[quali-**  
 7 **fied]****\*\*\* eligible\*\*\*** physicians who have agreed to participate  
 8 in the insurer's second surgical opinion program. If the benefits  
 9 are provided by the group insurance policy, the amount shall be  
 10 reasonably related to amounts payable under the group policy for  
 11 covered surgical procedures.

1 4. If a second surgical opinion does not confirm that a proposed  
 2 elective surgical procedure is medically advisable, the program  
 3 must cover a third surgical opinion in the same manner as the  
 4 second opinion.

1 5. Where a second surgical opinion program is operative in con-  
 2 nection with surgical coverage under a group insurance policy, and  
 3 provides second and third surgical opinion services at no cost to  
 4 the insured or patient, the group policy may, as an incentive to  
 5 encourage utilization of the program when elective surgery is pro-  
 6 posed, provide reduced benefits for the surgeon's charges for such  
 7 elective surgery if it is performed without first obtaining a second  
 8 or third opinion confirming that the proposed elective surgery was  
 9 advisable.

1 6. A second surgical opinion program may exclude benefits while  
 2 the patient is confined in a hospital as an inpatient, any surgical  
 3 procedure not covered by the group insurance policy, and surgical  
 4 procedures in the following categories: cosmetic surgery, preg-

5 *nancy-related surgery, dental surgery, **\*\*[pediatric]\*\*** **\*\*podia-***  
6 *tric\*\** surgery, and sterilizations.

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

1 **\*[3.]\* \*8.\*** This act shall apply to all contracts in which the in-  
2 surer has reserved the right to change the premium.

1 **\*[4.]\* \*9.\*** This act shall take effect **\*[90]\* \*180\*** days after  
2 enactment.

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ASSEMBLY, No. 1112

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 27 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 27 of Title 17B of the New Jersey Statutes shall require  
3 a second medical opinion in all elective surgical care as a pre-  
4 condition to payment for such care.

1 2. Any group contract entered into by such insurer with any  
2 insured shall provide for the payment of such second medical  
3 opinion and for any related laboratory, X-ray, and surgical diag-  
4 nostic tests. Such contract shall also provide for the payment of  
5 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 Bill No. 1110 and Assembly Bill No. 1111, 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.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO  
ASSEMBLY, No. 1112

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.

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SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1112**

[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.

ASSEMBLY BILL NO. 1112 (2nd OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1112 (2nd OCR) with my objections, for reconsideration.

This bill would require insurers issuing group insurance contracts to provide second medical opinion benefits 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. 1112 (2nd OCR) with my recommendations for reconsideration and recommend that it be amended as follows:

Page 1, section 1, line 6: Omit "a qualified" and insert "an eligible".

Page 1, section 1, line 13: Omit "Qualified" and insert "Eligible".

Page 1, section 1, line 15: After "surgical", insert "or medical".

Page 2, section 3, line 2: Omit "a qualified" and insert "an eligible".

Page 2, section 3, line 6: Omit "qualified" and insert "eligible".

Respectfully,

/s/ Brendan Byrne  
GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY