

2019 Regular Session

HOUSE BILL NO. 347

BY REPRESENTATIVES STOKES, ABRAMSON, ADAMS, AMEDEE, ANDERS, ARMES, BACALA, BAGLEY, BARRAS, BERTHELOT, BILLIOT, BOURRIAQUE, BRASS, TERRY BROWN, CARMODY, GARY CARTER, ROBBY CARTER, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, DEVILLIER, DUBUISSON, EDMONDS, EMERSON, FALCONER, FOIL, GAINES, GAROFALO, GISCLAIR, GLOVER, GUINN, JIMMY HARRIS, LANCE HARRIS, HENRY, HILFERTY, HILL, HOFFMANN, HORTON, HUVAL, JACKSON, JEFFERSON, MIKE JOHNSON, ROBERT JOHNSON, JONES, LACOMBE, TERRY LANDRY, LARVADAIN, LEBAS, LEGER, LEOPOLD, LYONS, MACK, MARCELLE, MARINO, MCMAHEN, MIGUEZ, DUSTIN MILLER, MOORE, PEARSON, POPE, PUGH, PYLANT, RICHARD, SCHEXNAYDER, SMITH, STAGNI, STEFANSKI, TALBOT, THOMAS, TURNER, WHITE, AND ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/HEALTH: To provide for health insurance coverage for breast cancer

1 AN ACT

2 To amend and reenact R.S. 22:1077(B) and (F)(1) and to enact R.S. 22:1028.1 and 1077.2,
3 relative to health insurance coverage for breast cancer; to require coverage for
4 diagnostic imaging at the same level of coverage provided for screening
5 mammograms; to define key terms; to provide for applicability; to provide for an
6 effective date; to require coverage for a patient's choice of medical and surgical
7 treatments following a diagnosis of breast cancer; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:1077(B) and (F)(1) are hereby amended and reenacted and R.S.
10 22:1028.1 and 1077.2 are hereby enacted to read as follows:

11 §1028.1. Required coverage for diagnostic imaging

12 A.(1) Any health coverage plan delivered or issued for delivery in this state
13 shall include coverage for diagnostic imaging at the same level of coverage provided
14 for the minimum mammography examination pursuant to R.S. 22:1028.

1 (2) The health coverage plan may require a referral by the treating physician
2 based on medical necessity for the diagnostic imaging to be eligible for the coverage
3 required pursuant to Paragraph (1) of this Subsection.

4 (3) Any coverage required pursuant to the provisions of this Section shall not
5 be subject to any policy or health coverage plan deductible amount.

6 B. For purposes of this Section:

7 (1) "Diagnostic imaging" means a diagnostic mammogram or breast
8 ultrasound screening for breast cancer designed to evaluate an abnormality in the
9 breast that is any of the following:

10 (a) Seen or suspected from a screening examination for breast cancer.

11 (b) Detected by another means of examination.

12 (c) Suspected based on the medical history or family medical history of the
13 individual.

14 (2) "Health coverage plan" means any hospital, health, or medical expense
15 insurance policy, hospital or medical service contract, employee welfare benefit plan,
16 contract, or other agreement with a health maintenance organization or a preferred
17 provider organization, health and accident insurance policy, or any other insurance
18 contract of this type in this state, including a group insurance plan, a self-insurance
19 plan, and the Office of Group Benefits programs. "Health coverage plan" shall not
20 include a plan providing coverage for excepted benefits as defined in R.S. 22:1061,
21 limited benefit health insurance plans, and short-term policies that have a term of
22 less than twelve months.

23 C. Any provision in a health insurance policy, benefit program, or health
24 coverage plan delivered, renewed, issued for delivery, or otherwise contracted for in
25 this state which is contrary to the provisions of this Section shall, to the extent of the
26 conflict, be void.

27 * * *

28 §1077. Required coverage for reconstructive surgery following mastectomies

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 B. Any health benefit plan offered by a health insurance issuer that provides
 2 medical and surgical benefits with respect to a partial mastectomy or a full unilateral
 3 or bilateral mastectomy shall also provide medical and surgical benefits for breast
 4 reconstruction. ~~Such~~ The coverage shall be for breast reconstruction procedures
 5 selected by the patient in consultation with attending physicians. The coverage
 6 provided in this Section may be subject to annual deductibles, coinsurance, and
 7 copayment provisions as are consistent with those established for mastectomy
 8 procedures under the health benefit plan. Written notice of the availability of
 9 coverage shall be delivered to the insured or enrollee upon enrollment and annually
 10 thereafter as approved by the commissioner of insurance.

11 * * *

12 F. For purposes of this Section:

13 (1) "Breast reconstruction" means both of the following:

14 (a) ~~at~~ All stages of reconstruction of the breast on which a unilateral
 15 mastectomy has been performed and on the other breast to produce a symmetrical
 16 appearance, including but not limited to liposuction performed for transfer to a
 17 reconstructed breast or to repair a donor site deformity, tattooing the areola of the
 18 breast, surgical adjustments of the non-mastectomized breast, unforeseen medical
 19 complications which may require additional reconstruction in the future, and
 20 prostheses and physical complications, including but not limited to lymphedemas.

21 (b) All stages of reconstruction of both breasts if a bilateral mastectomy has
 22 been performed, including but not limited to liposuction performed for transfer to a
 23 reconstructed breast or to repair a donor site deformity, tattooing the areola of the
 24 breast, unforeseen medical complications which may require additional
 25 reconstruction in the future, and prostheses and physical complications, including
 26 but not limited to lymphedemas.

27 * * *

1 §1077.2. Required coverage for a patient's choice of medical and surgical treatment

2 following a diagnosis of breast cancer

3 A. The legislature hereby finds all of the following:

4 (1) Breast cancer was the most common cancer in Louisiana women from
5 2010 to 2014.

6 (2) Between 2010 and 2014, the average annual incidence rate of female
7 breast cancer in Louisiana ranked twenty-ninth in the nation and approximately three
8 thousand women will be diagnosed with breast cancer each year in Louisiana.

9 (3) The Carter Stokes Oral and Written Summary of Breast Cancer
10 Treatment Alternatives and Access to Breast Reconstruction Surgery Information
11 Law, R.S. 40:1103.1 et seq., requires the treating physician or surgeon to inform a
12 patient diagnosed with any form of breast cancer of the alternative efficacious
13 methods of treatment by discussing the alternative methods of treatment with the
14 patient.

15 (4) Each woman facing breast cancer has to decide which treatment is right
16 for her.

17 (5) Helping patients to maximize their autonomy in breast cancer
18 decision-making is an important aspect of patient-centered care.

19 (6) Shared decision-making is a strategy that aims to maximize patient
20 autonomy by integrating the values and preferences of the patient with the
21 biomedical expertise of the physician.

22 B. The purpose of this Section is to stress that decisions regarding the
23 treatment procedures to be performed following a diagnosis of breast cancer shall be
24 made solely by the patient in consultation with attending physicians, and to clarify
25 that all levels of medical and surgical treatment as provided for in this Section are
26 medically necessary and shall not be excluded from coverage.

27 C.(1) Any health benefit plan offered by a health insurance issuer that
28 provides medical and surgical benefits with respect to a partial mastectomy or a full
29 unilateral or bilateral mastectomy shall provide coverage for the medical and surgical

1 treatment and corresponding breast reconstruction chosen by a patient diagnosed
2 with breast cancer in consultation with the attending physician regardless of whether
3 a partial mastectomy or a full unilateral or bilateral mastectomy is chosen by the
4 patient and physician.

5 (2) No health benefit plan offered by a health insurance issuer that provides
6 medical and surgical benefits with respect to a partial mastectomy or a full unilateral
7 or bilateral mastectomy shall deny coverage for those surgical procedures, including
8 corresponding breast reconstruction, chosen by a patient diagnosed with breast
9 cancer in consultation with the attending physician.

10 D. For purposes of this Section:

11 (1) "Breast reconstruction" has the same meaning as provided in R.S.
12 22:1077.

13 (2) "Health benefit plan" means any hospital, health, or medical expense
14 insurance policy, hospital or medical service contract, employee welfare benefit plan,
15 contract, or other agreement with a health maintenance organization or a preferred
16 provider organization, health and accident insurance policy, or any other insurance
17 contract of this type in this state, including a group insurance plan, a self-insurance
18 plan, and the Office of Group Benefits programs. "Health benefit plan" shall not
19 include a plan providing coverage for excepted benefits as defined in R.S. 22:1061,
20 limited benefit health insurance plans, and short-term policies that have a term of
21 less than twelve months.

22 (3) "Health insurance issuer" means an entity subject to the insurance laws
23 and regulations of this state, or subject to the jurisdiction of the commissioner, that
24 contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse
25 any of the costs of healthcare services, including through a health benefit plan as
26 defined in this Section, and shall include a sickness and accident insurance company,
27 a health maintenance organization, a preferred provider organization, or any similar
28 entity, or any other entity providing a plan of health insurance or health benefits.

29 Section 2.(A) This Act shall become effective on January 1, 2021.

1 (B) This Act shall apply to any new policy, contract, program, or health coverage
 2 plan issued on and after January 1, 2021. Any policy, contract, or health coverage plan in
 3 effect prior to January 1, 2021, shall convert to conform to the provisions of this Act on or
 4 before the renewal date, but no later than January 1, 2022.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 347 Reengrossed

2019 Regular Session

Stokes

Abstract: Requires coverage for diagnostic imaging for the presence of breast cancer at the same level of coverage provided for the screening mammography examination and requires coverage for a patient's choice of medical and surgical treatments, including breast reconstruction, following a diagnosis of breast cancer.

Present law requires any health coverage plan which is delivered or issued for delivery in this state to include benefits payable for a minimum mammography examination.

Proposed law retains present law and requires any health coverage plan delivered or issued for delivery in this state to include coverage for diagnostic imaging at the same level of coverage provided for the minimum mammography examination pursuant to present law.

Proposed law defines "diagnostic imaging" as a diagnostic mammogram or breast ultrasound screening for breast cancer designed to evaluate an abnormality in the breast that is any of the following:

- (1) Seen or suspected from a screening examination for breast cancer.
- (2) Detected by another means of examination.
- (3) Suspected based on the medical history or family medical history of the individual.

Proposed law authorizes the health coverage plan to require a referral by the treating physician based on medical necessity for the diagnostic imaging to be eligible for the required coverage but prohibits the coverage from being subject to any policy or health coverage plan deductible amount.

Proposed law provides that any provision in a health insurance policy, benefit program, or health coverage plan delivered, renewed, issued for delivery, or otherwise contracted for in this state which is contrary to proposed law shall, to the extent of the conflict, be void.

Present law requires any health benefit plan offered by a health insurance issuer that provides medical and surgical benefits with respect to a partial or full mastectomy to also provide medical and surgical benefits for breast reconstruction.

Proposed law retains present law but clarifies that present law applies to both a full unilateral mastectomy and a full bilateral mastectomy.

Present law defines "breast reconstruction" as all stages of reconstruction of the breast on which a mastectomy has been performed and on the other breast to produce a symmetrical appearance, including but not limited to liposuction performed for transfer to a reconstructed

breast or to repair a donor site deformity, tattooing the areola of the breast, surgical adjustments of the non-mastectomized breast, unforeseen medical complications which may require additional reconstruction in the future, and prostheses and physical complications, including but not limited to lymphedemas.

Proposed law retains present law but clarifies that present law applies to a unilateral mastectomy and expands the definition to include all stages of reconstruction of both breasts if a bilateral mastectomy has been performed, including but not limited to liposuction performed for transfer to a reconstructed breast or to repair a donor site deformity, tattooing the areola of the breast, unforeseen medical complications which may require additional reconstruction in the future, and prostheses and physical complications, including but not limited to lymphedemas.

Proposed law requires any health benefit plan offered by a health insurance issuer that provides medical and surgical benefits with respect to a partial mastectomy or a full unilateral or bilateral mastectomy to provide coverage for the medical and surgical treatment and corresponding breast reconstruction chosen by a patient diagnosed with breast cancer in consultation with the attending physician regardless of whether a partial mastectomy or a full unilateral or bilateral mastectomy is chosen by the patient and physician.

Proposed law prohibits any health benefit plan offered by a health insurance issuer that provides medical and surgical benefits with respect to a partial mastectomy or a full unilateral or bilateral mastectomy from denying coverage for those surgical procedures, including corresponding breast reconstruction, chosen by a patient diagnosed with breast cancer in consultation with the attending physician.

Proposed law applies to any new policy, contract, program, or health coverage plan issued on and after Jan. 1, 2021. Any policy, contract, or health coverage plan in effect prior to Jan. 1, 2021, shall convert to conform to the provisions of proposed law on or before the renewal date, but no later than Jan. 1, 2022.

Effective Jan. 1, 2021.

(Amends R.S. 22:1077(B) and (F)(1); Adds R.S. 22:1028.1 and 1077.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Change the definition of diagnostic imaging.
2. Delay the effective date to Jan. 1, 2021.

The House Floor Amendments to the engrossed bill:

1. Require coverage for a patient's choice of medical and surgical treatments, including breast reconstruction, following a diagnosis of breast cancer.
2. Define breast reconstruction.