

2016 Regular Session

HOUSE BILL NO. 694

BY REPRESENTATIVE MORENO

INSURANCE/HEALTH: Provides relative to required coverage for reconstructive surgeries following mastectomies

## 1 AN ACT

2 To amend and reenact R.S. 22:1077 and to repeal R.S. 22:272(E) and R.S. 40:2209, relative  
3 to required coverage of reconstructive surgeries following mastectomies; to delete  
4 the requirement that such coverage be performed under the same policy under which  
5 the mastectomy was performed; to specify that such coverage shall be for breast  
6 reconstruction procedures selected by the patient in consultation with attending  
7 physicians; to provide with respect to covered components of reconstruction; to  
8 provide with respect to notices of the availability of such coverage; to provide for  
9 definitions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 22:1077 is hereby amended and reenacted to read as follows:

12 §1077. Required coverage for reconstructive surgery following mastectomies

13 A. The legislature hereby finds that approximately three thousand women  
14 will be diagnosed with breast cancer each year in Louisiana. Studies documenting  
15 breast cancer statistics indicate that Louisiana has the highest mastectomy rate in the  
16 nation: fifty-one percent of all women diagnosed with breast cancer will undergo a  
17 mastectomy as part of their treatment regimen. Despite laws which require insurers  
18 and physicians to inform women that breast reconstruction is an insured surgical  
19 option, seven of ten women are not provided this information. The purpose of this  
20 Section is to assure that state law mirrors the federal Women's Health and Cancer

1        Rights Act, to extend its application to all health insurance issuers in Louisiana, to  
2        stress that decisions regarding the reconstructive procedures to be performed shall  
3        be made solely by the patient in consultation with attending physicians, and to clarify  
4        that all stages of breast reconstruction decided pursuant to this Section are medically  
5        necessary and shall not be excluded from coverage.

6                A. ~~B. A group health plan, a health insurance insurer providing health~~  
7        ~~insurance coverage in connection with a group health plan, or health insurance~~  
8        ~~coverage~~ Any health benefit plan offered by a health insurance insurer in the  
9        ~~individual market issuer~~ that provides medical and surgical benefits with respect to  
10       a partial or full mastectomy shall ~~provide, in the case of a participant or beneficiary~~  
11       ~~who is receiving benefits in connection with a mastectomy and who elects breast~~  
12       ~~reconstruction in connection with such mastectomy, also provide medical and~~  
13       ~~surgical benefits for breast reconstruction. coverage for reconstruction of the breast~~  
14       ~~on which the mastectomy has been performed, coverage for surgery and~~  
15       ~~reconstruction of the other breast to produce a symmetrical appearance, and coverage~~  
16       ~~for prostheses and physical complications, all states of mastectomy, including~~  
17       ~~lymphedemas and such~~ Such coverage shall be in a manner determined in  
18       consultation with the attending physician and the patient. for breast reconstruction  
19       procedures selected by the patient in consultation with attending physicians. The  
20       coverage provided in this Section may be subject to annual deductibles, coinsurance,  
21       and copayment provisions ~~as may be deemed appropriate and~~ as are consistent with  
22       those established for ~~other benefits~~ mastectomy procedures under the ~~plan or~~  
23       ~~coverage. health benefit plan.~~ Written notice of the availability of coverage shall be  
24       delivered to the ~~participant~~ insured or enrollee upon enrollment and annually  
25       thereafter as approved by the commissioner of insurance.

26                B. ~~C. A group health plan, a health insurance insurer providing health~~  
27        ~~insurance coverage in connection with a group health plan, or health insurance~~  
28        ~~coverage~~ Any health benefit plan offered by a health insurance insurer in the  
29        ~~individual market issuer~~ shall provide notice to each ~~participant and beneficiary~~

1        insured or enrollee under such plan regarding the coverage required by this Section  
2        in accordance with regulations adopted by the ~~department~~. Department of Insurance.

3        This notice shall be in writing and prominently positioned in any literature or  
4        correspondence made available or distributed by the plan or issuer and shall be  
5        transmitted in one of the following ways, whichever is earlier:

6                (1) In the next mailing made by the plan or ~~insurer~~ issuer to the ~~participant~~  
7        ~~or beneficiary~~. insured or enrollee.

8                (2) As part of any ~~yearly~~ annual informational packet sent to the ~~participant~~  
9        ~~or beneficiary~~. insured or enrollee.

10                ~~(3) Not later than January 1, 2000.~~

11                ~~C. D. A group health plan, a health insurance insurer offering group health~~  
12        ~~insurance coverage in connection with a group health plan, or health insurance~~  
13        ~~coverage~~ Any health benefit plan offered by a health insurance ~~insurer in the~~  
14        ~~individual market may not~~ issuer shall not: ~~do either of the following:~~

15                (1) Deny to a patient eligibility, or continued eligibility, to enroll or to renew  
16        coverage under the terms of the plan, solely for the purpose of avoiding the  
17        requirements of this Section.

18                (2) Penalize or otherwise reduce or limit the reimbursement of an attending  
19        provider, or provide monetary or nonmonetary incentives to an attending provider,  
20        to induce such provider to provide care to ~~an individual participant or beneficiary~~  
21        insured or enrollee in a manner inconsistent with this Section.

22                (3) Require that the mastectomy procedures and reconstructive procedures  
23        be performed under the same policy or plan.

24                (4) Reduce or limit coverage benefits to a patient for the reconstructive  
25        procedures performed pursuant to this Section as determined in consultation with the  
26        attending physician and patient.

27                ~~D. E.~~ E. In the case of a ~~group~~ health benefit plan maintained pursuant to one  
28        or more collective bargaining agreements between employee representatives and one  
29        or more employers, any plan amendment made pursuant to a collective bargaining

1 agreement relating to the plan which amends the plan solely to conform to any  
2 requirement imposed pursuant to this Section shall not be treated as a termination of  
3 the collective bargaining agreement.

4 F. For purposes of this Section:

5 (1) "Breast reconstruction" means all stages of reconstruction of the breast on  
6 which a mastectomy has been performed and on the other breast to produce a  
7 symmetrical appearance, including but not limited to liposuction performed for  
8 transfer to a reconstructed breast or to repair a donor site deformity, tattooing the  
9 areola of the breast, surgical adjustments of the non-mastectomized breast, and  
10 prostheses and physical complications, including but not limited to lymphedemas.

11 (2) "Health benefit plan" means a policy, contract, certificate, or agreement  
12 entered into, offered, or issued by a health insurance issuer to provide, deliver,  
13 arrange for, pay for, or reimburse any of the costs of health care services. "Health  
14 benefit plan" shall not include a plan providing coverage for excepted benefits as  
15 defined in R.S. 22:1061 and short-term policies that have a term of less than twelve  
16 months.

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

24 Section 2. R.S. 22:272(E) and R.S. 40:2209 are hereby repealed in their entirety.

25 Section 3. This Act shall become effective upon signature by the governor or, if not  
26 signed by the governor, upon expiration of the time for bills to become law without signature  
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
29 effective on the day following such approval.

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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)]

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HB 694 Original

2016 Regular Session

Moreno

**Abstract:** Clarifies the required coverage of reconstructive surgeries following mastectomies by removing conflicting provisions and adding definitions.

Proposed law clarifies the required coverage of reconstructive surgeries following mastectomies as follows:

- (1) Present law requires coverage of reconstructive surgeries following mastectomies by various types of health insurers, health plans, PPOs, and HMOs.

Proposed law requires such coverage by a "health benefit plan" offered by a "health insurance issuer", both broad terms which encompass all of the types of plans and entities provided for by present law.

- (2) Simplifies present law by stating that a health benefit plan that provides medical and surgical benefits for a partial or full mastectomy shall also provide such benefits for breast reconstruction.

- (3) Present law provides that such coverage shall be in a manner determined in consultation with the attending physician and the patient.

Proposed law instead provides that coverage shall be for breast reconstruction procedures selected by the patient in consultation with attending physicians.

- (4) Present law provides that such coverage may be subject to annual deductibles, coinsurance, and copayment provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage.

Proposed law provides that such coverage may be subject to annual deductibles, coinsurance, and copayment provisions as are consistent with those established for mastectomy procedures under the health benefit plan.

- (5) Present law prohibits health benefit plans from: (a) denying a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of present law; or (b) penalizing or otherwise reducing or limiting the reimbursement of an attending provider, or providing monetary or nonmonetary incentives to an attending provider, to induce such provider to provide care to in a manner inconsistent with this Section.

Proposed law additionally prohibits health benefit plans from: (a) requiring that mastectomy procedures and reconstructive procedures be performed under the same policy or plan; or (b) reducing or limiting coverage benefits to a patient for the reconstructive procedures performed pursuant to proposed law as determined in consultation with the attending physician and patient.

- (6) Defines the term "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, and prostheses and physical complications, including but not limited to lymphedemas.

(7) Provides for legislative findings.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:1077; Repeals R.S. 22:272(E) and R.S. 40:2209)