

ASSEMBLY BILL

No. 2342

Introduced by Assembly Members Burke and Waldron

February 13, 2018

An act to add Sections 1367.615 and 104150.5 to the Health and Safety Code, and to add Section 10123.815 to the Insurance Code, relating to cancer.

LEGISLATIVE COUNSEL'S DIGEST

AB 2342, as introduced, Burke. BRCA gene mutations: screening, counseling, and testing.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of its provisions a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requires every health care service plan contract and health insurance policy to provide coverage for screening for, diagnosis of, and treatment for, breast cancer, consistent with generally accepted medical practice and scientific evidence, upon the referral of the enrollee's or insured's participating physician.

Existing law requires the State Department of Health Care Services to perform various health functions, including providing breast and cervical cancer screening and treatment for low-income individuals.

This bill would require health care service plans, health insurers, and the State Department of Health Care Services to cover screening, genetic counseling, and testing for BRCA gene mutations in women who have not been diagnosed with BRCA-related cancer and do not have signs or symptoms of the disease, but who may have an increased risk based

on one or more of specified family history risk factors. By creating a new crime with respect to health care service plans, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1367.615 is added to the Health and
2 Safety Code, to read:

3 1367.615. (a) In addition to the services described in
4 subdivision (c) of Section 1367.6, every health care service plan
5 contract, except a specialized health care service plan contract,
6 that is issued, amended, delivered, or renewed on or after January
7 1, 2019, shall provide breast cancer susceptibility gene (BRCA)
8 screening, genetic counseling, and testing services under the
9 circumstances described in this section.

10 (b) Screening shall be provided for women who have not been
11 diagnosed with BRCA-related cancer and do not have signs or
12 symptoms of the disease, but who may have an increased risk for
13 potentially harmful mutations in breast or ovarian cancer
14 susceptibility genes, based on one or more of the following family
15 history risk factors:

- 16 (1) Breast cancer diagnosis before 50 years of age.
- 17 (2) Bilateral breast cancer.
- 18 (3) Breast and ovarian cancer.
- 19 (4) Presence of breast cancer in at least one male family member.
- 20 (5) Multiple cases of breast cancer in the family.
- 21 (6) At least one family member with two types of BRCA-related
22 cancer.
- 23 (7) Ashkenazi Jewish ancestry.

24 (c) Screening shall be provided using a generally accepted
25 screening tool designed to identify a family history that may be
26 associated with an increased risk for potentially harmful mutations
27 in breast or ovarian cancer susceptibility genes BRCA1 or BRCA2.

1 (d) Genetic counseling shall be provided for women with
2 positive screening results. If indicated after counseling, BRCA
3 testing shall be provided.

4 SEC. 2. Section 104150.5 is added to the Health and Safety
5 Code, to read:

6 104150.5. (a) In addition to the services described in
7 subdivision (b) of Section 104150, screening shall be provided for
8 women who have not been diagnosed with breast cancer
9 susceptibility gene-(BRCA)-related cancer and do not have signs
10 or symptoms of the disease, but who may have an increased risk
11 for potentially harmful mutations in breast or ovarian cancer
12 susceptibility genes, based on one or more of the following family
13 history risk factors:

14 (1) Breast cancer diagnosis before 50 years of age.

15 (2) Bilateral breast cancer.

16 (3) Breast and ovarian cancer.

17 (4) Presence of breast cancer in at least one male family member.

18 (5) Multiple cases of breast cancer in the family.

19 (6) At least one family member with two types of BRCA-related
20 cancer.

21 (7) Ashkenazi Jewish ancestry.

22 (b) Screening shall be provided using a generally accepted
23 screening tool designed to identify a family history that may be
24 associated with an increased risk for potentially harmful mutations
25 in breast or ovarian cancer susceptibility genes BRCA1 or BRCA2.

26 (c) Genetic counseling shall be provided for women with
27 positive screening results. If indicated after counseling, BRCA
28 testing shall be provided.

29 SEC. 3. Section 10123.815 is added to the Insurance Code, to
30 read:

31 10123.815. (a) In addition to the services described in
32 subdivision (c) of Section 10123.8, every policy of disability
33 insurance that provides coverage for hospital, medical, or surgical
34 expenses, that is issued, amended, delivered, or renewed on or
35 after January 1, 2019, shall provide breast cancer susceptibility
36 gene (BRCA) screening, genetic counseling, and testing services
37 under the circumstances described in this section.

38 (b) Screening shall be provided for women who have not been
39 diagnosed with BRCA-related cancer and do not have signs or
40 symptoms of the disease, but who may have an increased risk for

1 potentially harmful mutations in breast or ovarian cancer
2 susceptibility genes, based on one or more of the following family
3 history risk factors:

- 4 (1) Breast cancer diagnosis before 50 years of age.
- 5 (2) Bilateral breast cancer.
- 6 (3) Breast and ovarian cancer.
- 7 (4) Presence of breast cancer in at least one male family member.
- 8 (5) Multiple cases of breast cancer in the family.
- 9 (6) At least one family member with two types of BRCA-related
10 cancer.
- 11 (7) Ashkenazi Jewish ancestry.

12 (c) Screening shall be provided using a generally accepted
13 screening tool designed to identify a family history that may be
14 associated with an increased risk for potentially harmful mutations
15 in breast or ovarian cancer susceptibility genes BRCA1 or BRCA2.

16 (d) Genetic counseling shall be provided for women with
17 positive screening results. If indicated after counseling, BRCA
18 testing shall be provided.

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.