

105TH CONGRESS
1ST SESSION

S. 902

To require physicians to provide certain men with information concerning prostate specific antigen tests and to provide for programs of research on prostate cancer.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1997

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To require physicians to provide certain men with information concerning prostate specific antigen tests and to provide for programs of research on prostate cancer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Prostate Testing Full
5 Information Act”.

6 **SEC. 2. REQUIREMENT RELATING TO CERTAIN PHYSI-**
7 **CIANS.**

8 (a) REQUIREMENT.—If a covered physician, during
9 a physical examination, examines the prostate gland of a

1 patient, the physician shall provide information to the pa-
2 tient concerning the availability of appropriate diagnostic
3 procedures, including the prostate antigen test, if any of
4 the following conditions are present:

5 (1) The patient is over 50 years of age.

6 (2) The patient manifests clinical symptoma-
7 tology.

8 (3) The patient is at an increased risk of pros-
9 tate cancer.

10 (4) The provision of the information to the pa-
11 tient is medically necessary, in the opinion of the
12 physician.

13 (b) ENFORCEMENT.—The Secretary of Health and
14 Human Services shall promulgate regulations that—

15 (1) require the reporting of covered physicians
16 that violate subsection (a) to the Secretary; and

17 (2) provide for the application of sanctions to
18 enforce the provisions of subsection (a).

19 (c) DEFINITION.—In this section, the term “covered
20 physician” means a physician as defined in section
21 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))
22 who has received any Federal payment or assistance under
23 any program under—

24 (1) the Public Health Service Act (42 U.S.C.
25 201 et seq.); or

1 (2) the Social Security Act (42 U.S.C. 301 et
2 seq.).

3 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
4 **COME SECURITY ACT OF 1974.**

5 (a) IN GENERAL.—Subpart B of part 7 of subtitle
6 B of title I of the Employee Retirement Income Security
7 Act of 1974 (as added by section 603(a) of the Newborns’
8 and Mothers’ Health Protection Act of 1996 and amended
9 by section 702(a) of the Mental Health Parity Act of
10 1996) is amended by adding at the end the following:

11 **“SEC. 713. REQUIREMENT RELATING TO PROSTATE SPE-**
12 **CIFIC ANTIGEN TEST.**

13 “(a) REQUIREMENT.—If a physician, during a phys-
14 ical examination, examines the prostate gland of a patient,
15 the physician shall provide information to the patient con-
16 cerning the availability of appropriate diagnostic proce-
17 dures, including the prostate antigen test, if any of the
18 following conditions are present:

19 “(1) The patient is over 50 years of age.

20 “(2) The patient manifests clinical symptoma-
21 tology.

22 “(3) The patient is at an increased risk of pros-
23 tate cancer, as determined pursuant to regulations
24 promulgated by the Secretary of Health and Human
25 Services.

1 “(4) The provision of the information to the pa-
2 tient is medically necessary, in the opinion of the
3 physician.

4 “(b) PROHIBITION ON LIMITATION.—The provision
5 of information in accordance with subsection (a) may not
6 be prohibited under the terms of—

7 “(1) any written contract or written agreement
8 between the physician and any group health plan,
9 any health insurance issuer providing health insur-
10 ance coverage in connection with a group health
11 plan, or any related party with respect to a group
12 health plan; or

13 “(2) any written statement from the plan, is-
14 suer, or related party to the physician.

15 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion shall be construed as requiring a group health plan
17 or a health insurance issuer providing health insurance
18 coverage in connection with a group health plan to provide
19 coverage for prostate specific antigen tests.

20 “(d) DEFINITION.—In this section, the term ‘physi-
21 cian’ has the meaning given such term in section 1861(r)
22 of the Social Security Act (42 U.S.C. 1395x(r)).”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1 of such Act, as amended by section 603 of
25 the Newborns’ and Mothers’ Health Protection Act of

1 1996 and section 702 of the Mental Health Parity Act
 2 of 1996, is amended by inserting after the item relating
 3 to section 712 the following new item:

“Sec. 713. Requirement relating to prostate specific antigen test.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply with respect to plan years begin-
 6 ning on or after January 1, 1998.

7 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 8 **ACT RELATING TO THE GROUP MARKET.**

9 (a) IN GENERAL.—Subpart 2 of part A of title
 10 XXVII of the Public Health Service Act (as added by sec-
 11 tion 604(a) of the Newborns’ and Mothers’ Health Protec-
 12 tion Act of 1996 and amended by section 703(a) of the
 13 Mental Health Parity Act of 1996) is amended by adding
 14 at the end the following new section:

15 **“SEC. 2706. REQUIREMENT RELATING TO PROSTATE SPE-**
 16 **CIFIC ANTIGEN TEST.**

17 “(a) REQUIREMENT.—If a physician, during a phys-
 18 ical examination, examines the prostate gland of a patient,
 19 the physician shall provide information to the patient con-
 20 cerning the availability of appropriate diagnostic proce-
 21 dures, including the prostate antigen test, if any of the
 22 following conditions are present:

23 “(1) The patient is over 50 years of age.

24 “(2) The patient manifests clinical symptoma-
 25 tology.

1 “(3) The patient is at an increased risk of pros-
2 tate cancer, as determined pursuant to regulations
3 promulgated by the Secretary of Health and Human
4 Services.

5 “(4) The provision of the information to the pa-
6 tient is medically necessary, in the opinion of the
7 physician.

8 “(b) PROHIBITION ON LIMITATION.—The provision
9 of information in accordance with subsection (a) may not
10 be prohibited under the terms of—

11 “(1) any written contract or written agreement
12 between the physician and any group health plan,
13 any health insurance issuer providing health insur-
14 ance coverage in connection with a group health
15 plan, or any related party with respect to a group
16 health plan; or

17 “(2) any written statement from the plan, is-
18 suer, or related party to the physician.

19 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed as requiring a group health plan
21 or a health insurance issuer providing health insurance
22 coverage in connection with a group health plan to provide
23 coverage for prostate specific antigen tests.

1 “(d) DEFINITION.—In this section, the term ‘physi-
 2 cian’ has the meaning given such term in section 1861(r)
 3 of the Social Security Act (42 U.S.C. 1395x(r)).”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply with respect to group health plans
 6 for plan years beginning on or after January 1, 1998.

7 **SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT**
 8 **RELATING TO THE INDIVIDUAL MARKET.**

9 (a) IN GENERAL.—Subpart 3 of part B of title
 10 XXVII of the Public Health Service Act (as added by sec-
 11 tion 605(a) of the Newborn’s and Mother’s Health Protec-
 12 tion Act of 1996) is amended by adding at the end the
 13 following new section:

14 **“SEC. 2752. REQUIREMENT RELATING TO PROSTATE SPE-**
 15 **CIFIC ANTIGEN TEST.**

16 “The provisions of section 2706 shall apply to health
 17 insurance coverage offered by a health insurance issuer
 18 in the individual market in the same manner as they apply
 19 to health insurance coverage offered by a health insurance
 20 issuer in connection with a group health plan in the small
 21 or large group market.”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 this section shall apply with respect to health insurance
 24 coverage offered, sold, issued, renewed, in effect, or oper-
 25 ated in the individual market on or after January 1, 1998.

1 **SEC. 6. RESEARCH AND EDUCATION REGARDING PROS-**
2 **TATE CANCER; CERTAIN PROGRAMS OF THE**
3 **PUBLIC HEALTH SERVICE.**

4 (a) NATIONAL INSTITUTES OF HEALTH.—Section
5 417B(c) of the Public Health Service Act (42 U.S.C.
6 286a–8(c)) is amended in the first sentence by striking
7 “\$72,000,000” and all that follows and inserting the fol-
8 lowing: “\$90,250,000 for fiscal year 1998, \$108,500,000
9 for fiscal year 1999, \$126,500,000 for fiscal year 2000,
10 and \$145,000,000 for fiscal year 2001.”.

11 (b) AGENCY FOR HEALTH CARE POLICY AND RE-
12 SEARCH.—Section 902 of the Public Health Service Act
13 (42 U.S.C. 299a) is amended by adding at the end the
14 following:

15 “(f) ACTIVITIES REGARDING PROSTATE CANCER.—
16 The Administrator shall, with respect to prostate cancer—
17 “(1) conduct and support research on the out-
18 comes, effectiveness, and appropriateness of health
19 services and procedures; and

20 “(2) in carrying out section 912(a), provide for
21 the development, periodic review, and updating of
22 clinically relevant guidelines, standards of quality,
23 performance measures, and medical review criteria.”.