

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2781

4
5 By: Representative Elliott
6 By: Senators Steele, Critcher, Whitaker

For An Act To Be Entitled

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9
10 THE COLORECTAL CANCER ACT OF 2005; AND FOR OTHER
11 PURPOSES.

Subtitle

12
13
14 THE COLORECTAL CANCER ACT OF 2005.

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code Title 20, Chapter 15, is amended to add an
20 additional subchapter to read as follows:

21 20-15-1701. Title.

22 This subchapter shall be known and may be cited as the "Colorectal
23 Cancer Act of 2005".

24
25 20-15-1702. Findings and purpose.

26 (a) The General Assembly finds that:

27 (1) Colorectal cancer is a significant threat to the health of
28 Arkansas residents;

29 (2) The incidence of colorectal cancer deaths in the State of
30 Arkansas continues to increase at a dramatic rate, rising from five hundred
31 eighty-one (581) in 1995 to six hundred twenty-seven (627) in 2000;

32 (3) Colorectal cancer exacts an enormous economic toll on our
33 society in direct medical costs and indirect costs, such as lost work due to
34 illness and shortened lives among experienced workers;

35 (4) Colorectal cancer is largely preventable; and

36 (5) Screening for colorectal cancer can identify the precursors



1 of cancer before the disease begins and the precursors can be removed, thus
2 preventing the emergence of any colorectal cancer.

3 (b) This subchapter is intended to:

4 (1) Support essential research and services for educating the
5 public concerning the value of screening for colorectal cancer;

6 (2) Support research into improved methods for screening and
7 treating colorectal cancer; and

8 (3) Require providers to offer a wide range of colorectal cancer
9 screening options.

10
11 20-15-1703. Colorectal Cancer Control and Research Program.

12 (a)(1) There is established within the University of Arkansas for
13 Medical Sciences a Colorectal Cancer Control and Research Program.

14 (2) This program shall support research and educational programs
15 for early detection, prevention, treatment, cure of colorectal cancer, and
16 survivorship.

17 (3) The program shall be administered to:

18 (A) Fund innovative research and the dissemination of
19 successful research findings with special emphasis on research that
20 complements rather than duplicates the research funded by the federal
21 government and other entities; and

22 (B) Award all research grants on the basis of the:

23 (i) Research priorities established for the program;
24 and

25 (ii) Scientific merit of the proposed research as
26 determined by a peer review process governed by the Oversight Committee on
27 Colorectal Cancer Control and Research.

28
29 20-15-1704. Oversight committee -- Created -- Membership.

30 (a)(1) The Oversight Committee on Colorectal Cancer Control and
31 Research is established and shall consist of nine (9) members appointed by
32 the Governor as follows:

33 (A) One (1) member shall represent the Arkansas Medical
34 Society;

35 (B) One (1) member shall represent the Arkansas Hospital
36 Association;

1 program shall be treated in accordance with state and federal law.

2
3 20-15-1705. Colorectal Cancer Control Advisory Board.

4 (a)(1) There is established the Colorectal Cancer Control and Research
5 Advisory Board, which shall consist of seven (7) members appointed by the
6 Governor as follows:

7 (A) One (1) member shall represent the Arkansas Medical
8 Society;

9 (B) One (1) member shall represent the Arkansas Hospital
10 Association;

11 (C) One (1) member shall represent the American Cancer
12 Society;

13 (D) One (1) member shall represent the Arkansas Nursing
14 Association;

15 (E) One (1) member shall represent the medical oncology
16 community;

17 (F) One (1) member shall represent the radiation oncology
18 community; and

19 (G) One (1) member shall be a colorectal cancer health
20 advocate.

21 (2) Each of the four (4) congressional districts shall be
22 represented by at least one (1) board member.

23 (b)(1) The members of the board shall serve for a period of four (4)
24 years.

25 (2) The members shall draw lots to determine that the initial
26 members appointed shall serve as follows:

27 (A) Two (2) members shall serve until January 1, 2007;

28 (B) Two (2) members shall serve until January 1, 2008; and

29 (C) Three (3) members shall serve until January 1, 2009.

30
31 20-15-1706. Colorectal Cancer Control and Research Program -- Creation
32 -- Duties.

33 (a) There is established within the University of Arkansas for Medical
34 Sciences a Colorectal Cancer Control and Research Program.

35 (b)(1) The program shall provide for the full continuum of care,
36 prevention, early detection, diagnosis, treatment, cure of colorectal cancer,

1 and survivorship.

2 (2) The program shall be administered to provide:

3 (A) Colorectal cancer education and awareness to promote
 4 prevention and early detection;

5 (B) Colorectal cancer surveillance activities across the
 6 state;

7 (C) Screening for colorectal cancer with special focus on
 8 persons fifty (50) years of age and older and persons at high risk for
 9 colorectal cancer;

10 (D) After-screening, medical referrals, and financial
 11 assistance for services necessary to follow up abnormal screening exams;

12 (E) Necessary advocacy and financial assistance to ensure
 13 the persons obtain necessary treatment if a positive diagnosis is made; and

14 (F) Obtain information from health care insurers and
 15 providers concerning the extent of colorectal cancer screening, treatment,
 16 and insurance coverage.

17
 18 SECTION 2. Arkansas Code Title 23, Chapter 79, is amended to add an
 19 additional subchapter to read as follows:

20 23-79-1101. Definitions.

21 As used in this subchapter:

22 (1) "Covered person" means a person who is and continues to
 23 remain eligible for coverage under a health care policy and is covered under
 24 a health care policy;

25 (2) "Health care policy" means:

26 (A) An individual or group health insurance policy
 27 providing coverage on an expense-incurred basis;

28 (B) An individual or group service or indemnity type
 29 contract issued by a nonprofit corporation;

30 (C) An individual or group service contract issued by a
 31 health maintenance organization;

32 (D) A group accident and sickness insurance policy issued
 33 by a fraternal benefit society, a nonprofit hospital service corporation, a
 34 nonprofit medical service corporation, a group health care plan, a health
 35 maintenance organization, or any similar entity; and

36 (E) A policy issued by or in connection with:

1 (i) The Arkansas medical assistance program and its
 2 contracted insurers, whether providing services on a managed-care or fee-for-
 3 service basis;

4 (ii) The state employees' and public school
 5 teachers' health insurance programs;

6 (iii) A self-insured group arrangement to the extent
 7 not preempted by federal law; and

8 (iv) A managed health care delivery entity of any
 9 type or description; and

10 (3) "Persons at high risk for colorectal cancer" means:

11 (A) Individuals who face a high risk for colorectal cancer
 12 because of:

13 (i) Family history;

14 (ii) Prior medical history of cancer or precursor
 15 neoplastic polyps;

16 (iii) A history of chronic digestive disease
 17 condition, including inflammatory bowel disease, Crohn's Disease, or
 18 ulcerative colitis; or

19 (iv) The presence of any appropriate recognized gene
 20 markers for colorectal cancer or other predisposing factors; and

21 (B) Any additional or expanded definition of "persons at
 22 high risk for colorectal cancer" as recognized by medical science and
 23 determined by the Director of the Department of Health in consultation with
 24 the University of Arkansas for Medical Sciences.

25
 26 23-79-1102. Coverage - Applicability.

27 (a) A health care policy subject to this subchapter executed,
 28 delivered, issued for delivery, continued, or renewed in this state on or
 29 after August 1, 2005, shall include colorectal cancer examinations and
 30 laboratory tests within the policy's coverage.

31 (b) The coverage shall include colorectal cancer examinations and
 32 laboratory tests for:

33 (1) Covered persons who are fifty (50) years of age or older;

34 (2) Covered persons who are less than fifty (50) years of age
 35 and at high risk for colorectal cancer according to American Cancer Society
 36 colorectal cancer screening guidelines as they existed on January 1, 2005;

1 and

2 (3) Covered persons experiencing symptoms of colorectal cancer
3 as determined by a physician licensed under the Arkansas Medical Practices
4 Act, §§ 17-95-201 et seq., 17-95-301 et seq., and 17-95-401 et seq.

5 (c) After August 1, 2005, each employer that offers a health care
6 policy to employees shall offer all eligible employees at the time of hiring
7 or health care policy renewal a policy that includes colorectal cancer
8 examinations and laboratory tests within the coverage of the employee's
9 health care policy.

10 (d)(1) The colorectal screening examinations and laboratory tests
11 shall include:

12 (A) A fecal occult blood test conducted annually, a
13 flexible sigmoidoscopy conducted every five (5) years, or both;

14 (B) A colonoscopy conducted every ten (10) years;

15 (C) A double contrast barium enema conducted every five
16 (5) years; and

17 (D) Any additional medically recognized screening tests
18 for colorectal cancer required by the Director of the Department of Health,
19 determined in consultation with appropriate health care organizations.

20 (2) The covered person shall determine the choice of screening
21 strategies in consultation with a health care provider.

22 (3) Colorectal screening examinations shall be:

23 (A) Conducted as frequently as determined necessary by a
24 health care provider for individuals at high risk for colorectal cancer; or

25 (B) According to the choices and frequency provided by
26 this subsection (d) for all other covered persons.

27
28 23-79-1103. Certain activities not prohibited.

29 (a) This subchapter does not prohibit the issuance of policies that
30 provide benefits greater than those required by § 23-79-1102 or more
31 favorable to the insured than those required by § 23-79-1102.

32 (b) This subchapter does not prohibit the payment of different levels
33 of benefits or from having differences in coinsurance percentages applicable
34 to benefit levels for services provided by preferred and nonpreferred
35 providers as otherwise authorized by law relating to preferred provider
36 arrangements.

1
2 23-79-1104. Exclusions and reductions -- Benefits subject to annual
3 deductible and co-insurance.

4 (a) Except as provided in subsection (b) of this section, the coverage
5 offered under § 23-79-1102 may contain any exclusions, reductions, or other
6 limitations approved by the Insurance Commissioner concerning coverages,
7 deductibles, or coinsurance provisions.

8 (b) The benefits provided in this subchapter shall be subject to the
9 same annual deductible or coinsurance established for all other covered
10 benefits within a health care policy.

11
12 23-79-1105. Coverage by participating providers -- Selection criteria
13 and utilization protocols -- Maximum benefits -- Exclusions.

14 (a)(1) This subchapter does not require and shall not be construed to
15 require the coverage of services by providers who are not designated as
16 covered providers or that are not selected as a participating provider by a
17 group health benefit plan or insurer having a participating network of
18 service providers.

19 (2) This subchapter does not expand the list or designation of
20 participating providers as specified in any health benefit plan.

21 (b) Insurers or other issuers of any health benefit plan covered by
22 this subchapter may continue to establish and apply selection criteria and
23 utilization protocols for health care providers including:

24 (1) The designation of types of providers for which coverage is
25 provided; and

26 (2) Credentialing criteria used in the selection of providers.

27 (c) A health care policy that provides coverage for the services
28 offered under this subchapter may contain provisions for maximum benefits and
29 coinsurance limitations, deductibles, exclusions, and utilization review
30 protocols to the extent that the provisions are not inconsistent with the
31 requirements of this subchapter.

32
33 23-79-1106. Additional benefit costs.

34 The issuer of a health care policy shall conform its policies,
35 contracts, or certificates issued on or after August 1, 2005, and may adjust
36 its premium cost to reflect the additional benefit cost.

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23-79-1107. Cost-sharing.

(a) To encourage colorectal cancer screenings, patients and health care providers may not be required to meet burdensome criteria or overcome significant obstacles to obtain coverage.

(b) An individual shall not be required to pay an additional deductible or coinsurance for testing that is greater than an annual deductible or coinsurance established for similar benefits.

(c) If the program or contract does not cover a similar benefit, a deductible or coinsurance may not be set at a level that materially diminishes the value of the colorectal cancer benefit required under this subchapter.

(d) Reimbursement to health care providers for colorectal cancer screenings provided under this section shall be equal to or greater than reimbursement to health care providers under Medicare, Title XVII of the Social Security Act, 42 U.S.C. § 1395 et seq., as it existed on January 1, 2005.

23-79-1108. Referrals to participating providers.

A health care policy is not required to provide a referral under this subchapter to a nonparticipating health care provider unless the plan or carrier does not have a participating health care provider that is available and accessible to administer the screening, examination, or treatment of colorectal cancer.

23-79-1109. Payment of nonparticipating providers.

If a health care policy refers an individual under this subchapter to a nonparticipating health care provider, then services provided under the approved screening exam or resulting treatment, if any, shall be provided at no additional cost to the individual beyond what the individual would otherwise pay to a participating health care provider.

SECTION 3. EMERGENCY CLAUSE. It is hereby found and determined that colorectal cancer is a leading cause of death among Arkansas residents; that this number of deaths will increase as our population grows older; that colorectal cancer is a preventable disease; that information barriers result

1 in Arkansas residents being unaware of the risk of colorectal cancer or the
2 value of screening, prevention, and early detection; that financial barriers
3 prevent some Arkansas residents from taking advantage of screening; and that
4 there is a lack of funding to provide for screening, diagnostic, and
5 treatment services for persons at risk of colorectal cancer. Therefore, this
6 act being necessary for the preservation of the public peace, health, and
7 safety shall be in full force and effect from and after August 1, 2005.

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