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I N A S S E M B L Y

January 9, 2014

Introduced by M. of A. ROSENTHAL, SCHIMEL, BROOK-KRASNY, LAVINE, PERRY,
ROBINSON -- Multi-Sponsored by -- M. of A. BARRON, COOK, CYMBROWITZ,
JACOBS, MARKEY, SWEENEY, TITONE, WEINSTEIN, WEISENBERG -- read once
and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring certain
health insurance coverage for lymphedema

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Clause (ii) of subparagraph (A) of paragraph 20 of
2 subsection (i) of section 3216 of the insurance law, as added by chapter
3 21 of the laws of 1997, is amended and a new clause (iii) is added to
4 read as follows:
5 (ii) surgery and reconstruction of the other breast to produce a
6 symmetrical appearance; AND
7 (III) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTO-
8 MY, INCLUDING LYMPHEDEMA;
9 S 2. Subsection (i) of section 3216 of the insurance law is amended by
10 adding two new paragraphs 30 and 31 to read as follows:
11 (30) EVERY POLICY WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR
12 MEDICAL COVERAGE SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS
13 AND TREATMENT OF LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO
14 BENEFITS FOR A COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURA-
15 TION IS DETERMINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON
16 MEDICAL NECESSITY AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION
17 STANDARDS, BENEFITS FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGES-
18 TIVE THERAPY, AND OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR
19 THE TREATMENT OF LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL
20 LEGALLY AUTHORIZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT
21 OF THE EDUCATION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS
22 SECTION SHALL BE ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM
23 LYMPHEDEMA TREATMENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA
24 (LANA) OR CERTIFIED IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE
25 CERTIFICATION STANDARDS OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES
26 SHALL INCLUDE, BUT NOT BE LIMITED TO, BANDAGES, COMPRESSION GARMENTS,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 PADS, ORTHOTIC SHOES AND DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO
2 MAINTAIN COMPRESSIVE FUNCTION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S
3 DIMENSIONS. COVERAGE SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN
4 MEDICALLY REQUIRED OR TO PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONI-
5 TOR PROGRESS AGAINST THE WRITTEN TREATMENT PLAN AND TO MODIFY THE TREAT-
6 MENT PLAN AS REQUIRED. NO INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN
7 AND SURGEON COMPETENT TO EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED
8 IN THE CARE REQUESTED, MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH
9 CARE SERVICES PURSUANT TO THIS SECTION.

10 (A) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH
11 HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S
12 PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH
13 CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE
14 AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS PARA-
15 GRAPH.

16 (B) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL
17 IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS PARAGRAPH ANY
18 COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT
19 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
20 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

21 (C) THIS PARAGRAPH SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
22 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR
23 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
24 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
25 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
26 GOVERNMENTAL PLANS.

27 (D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL
28 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
29 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
30 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
31 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
32 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
33 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
34 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
35 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY
36 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY
37 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE
38 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S
39 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
40 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

41 (31) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL
42 BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT
43 PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA.
44 INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES
45 SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE
46 ALTERNATIVE PROCEDURES.

47 S 3. Clause (ii) of subparagraph (A) of paragraph 10 of subsection (k)
48 of section 3221 of the insurance law, as added by chapter 21 of the laws
49 of 1997, is amended and a new clause (iii) is added to read as follows:

50 (ii) surgery and reconstruction of the other breast to produce a
51 symmetrical appearance; AND

52 (III) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTO-
53 MY, INCLUDING LYMPHEDEMA;

54 S 4. Subsection (k) of section 3221 of the insurance law is amended by
55 adding two new paragraphs 19 and 20 to read as follows:

1 (19) EVERY GROUP POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE
2 WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR MEDICAL COVERAGE
3 SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS AND TREATMENT OF
4 LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO BENEFITS FOR A
5 COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURATION IS DETER-
6 MINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON MEDICAL NECESSITY
7 AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION STANDARDS, BENEFITS
8 FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGESTIVE THERAPY, AND
9 OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR THE TREATMENT OF
10 LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL LEGALLY AUTHOR-
11 IZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT OF THE EDUCA-
12 TION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS SECTION SHALL BE
13 ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM LYMPHEDEMA TREAT-
14 MENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA (LANA) OR CERTIFIED
15 IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE CERTIFICATION STANDARDS
16 OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES SHALL INCLUDE, BUT NOT BE
17 LIMITED TO, BANDAGES, COMPRESSION GARMENTS, PADS, ORTHOTIC SHOES AND
18 DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO MAINTAIN COMPRESSIVE FUNC-
19 TION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S DIMENSIONS. COVERAGE
20 SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN MEDICALLY REQUIRED OR TO
21 PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONITOR PROGRESS AGAINST THE
22 WRITTEN TREATMENT PLAN AND TO MODIFY THE TREATMENT PLAN AS REQUIRED. NO
23 INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN AND SURGEON COMPETENT TO
24 EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED IN THE CARE REQUESTED,
25 MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH CARE SERVICES PURSUANT TO
26 THIS SECTION.

27 (A) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH
28 HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S
29 PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH
30 CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE
31 AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS PARA-
32 GRAPH.

33 (B) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL
34 IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS PARAGRAPH ANY
35 COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT
36 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
37 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

38 (C) THIS PARAGRAPH SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
39 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR
40 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
41 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
42 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
43 GOVERNMENTAL PLANS.

44 (D) FOR PURPOSES OF THIS PARAGRAPH, A "MANAGED CARE PRODUCT" SHALL
45 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
46 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
47 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
48 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
49 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
50 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
51 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
52 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY
53 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY
54 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE
55 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S

1 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
2 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

3 (20) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL
4 BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT
5 PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA.
6 INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES
7 SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE
8 ALTERNATIVE PROCEDURES.

9 S 5. Subparagraph (B) of paragraph 1 of subsection (x) of section 4303
10 of the insurance law, as added by chapter 21 of the laws of 1997, is
11 amended and a new subparagraph (C) is added to read as follows:

12 (B) surgery and reconstruction of the other breast to produce a
13 symmetrical appearance; AND

14 (C) PROSTHESES AND PHYSICAL COMPLICATIONS OF ALL STAGES OF MASTECTOMY,
15 INCLUDING LYMPHEDEMA;

16 S 6. Section 4303 of the insurance law is amended by adding two new
17 subsections (oo) and (pp) to read as follows:

18 (OO) EVERY CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION OR HEALTH
19 SERVICE CORPORATION WHICH PROVIDES HOSPITAL, SURGICAL, MEDICAL OR MAJOR
20 MEDICAL COVERAGE SHALL PROVIDE COVERAGE FOR THE DIFFERENTIAL DIAGNOSIS
21 AND TREATMENT OF LYMPHEDEMA. SUCH COVERAGE SHALL INCLUDE, IN ADDITION TO
22 BENEFITS FOR A COURSE OF MANUAL LYMPH DRAINAGE WHOSE FREQUENCY AND DURA-
23 TION IS DETERMINED BY THE TREATING PHYSICIAN OR THERAPIST BASED ON
24 MEDICAL NECESSITY AND NOT BASED ON PHYSICAL THERAPY AND REHABILITATION
25 STANDARDS, BENEFITS FOR EQUIPMENT, SUPPLIES, DEVICES, COMPLEX DECONGES-
26 TIVE THERAPY, AND OUT-PATIENT SELF-MANAGEMENT TRAINING AND EDUCATION FOR
27 THE TREATMENT OF LYMPHEDEMA, IF PRESCRIBED BY A HEALTH CARE PROFESSIONAL
28 LEGALLY AUTHORIZED TO PRESCRIBE OR PROVIDE SUCH ITEMS UNDER TITLE EIGHT
29 OF THE EDUCATION LAW. LYMPHEDEMA THERAPY ADMINISTERED UNDER THIS
30 SECTION SHALL BE ADMINISTERED ONLY BY A THERAPIST CERTIFIED TO PERFORM
31 LYMPHEDEMA TREATMENT BY THE LYMPHOLOGY ASSOCIATION OF NORTH AMERICA
32 (LANA) OR CERTIFIED IN ACCORDANCE WITH STANDARDS EQUIVALENT TO THE
33 CERTIFICATION STANDARDS OF LANA. SUCH EQUIPMENT, SUPPLIES OR DEVICES
34 SHALL INCLUDE, BUT NOT BE LIMITED TO, BANDAGES, COMPRESSION GARMENTS,
35 PADS, ORTHOTIC SHOES AND DEVICES, WITH REPLACEMENTS WHEN REQUIRED TO
36 MAINTAIN COMPRESSIVE FUNCTION OR TO ACCOMMODATE CHANGES IN THE PATIENT'S
37 DIMENSIONS. COVERAGE SHALL BE PROVIDED FOR FOLLOW-UP TREATMENTS WHEN
38 MEDICALLY REQUIRED OR TO PERIODICALLY VALIDATE HOME TECHNIQUES, TO MONI-
39 TOR PROGRESS AGAINST THE WRITTEN TREATMENT PLAN AND TO MODIFY THE TREAT-
40 MENT PLAN AS REQUIRED. NO INDIVIDUAL, OTHER THAN A LICENSED PHYSICIAN
41 AND SURGEON COMPETENT TO EVALUATE THE SPECIFIC CLINICAL ISSUES INVOLVED
42 IN THE CARE REQUESTED, MAY DENY REQUESTS FOR AUTHORIZATION OF HEALTH
43 CARE SERVICES PURSUANT TO THIS SECTION.

44 (1) A POLICY WHICH IS A MANAGED HEALTH CARE PRODUCT MAY REQUIRE SUCH
45 HEALTH CARE PROFESSIONAL BE A MEMBER OF SUCH MANAGED HEALTH CARE PLAN'S
46 PROVIDER NETWORK, PROVIDED THAT SUCH NETWORK INCLUDES SUFFICIENT HEALTH
47 CARE PROFESSIONALS WHO ARE QUALIFIED BY SPECIFIC EDUCATION, EXPERIENCE
48 AND CREDENTIALS TO PROVIDE THE COVERED BENEFITS DESCRIBED IN THIS
49 SUBSECTION.

50 (2) NO INSURER, CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION SHALL
51 IMPOSE UPON ANY PERSON RECEIVING BENEFITS PURSUANT TO THIS SUBSECTION
52 ANY COPAYMENT, FEE, POLICY YEAR OR CALENDAR YEAR, OR DURATIONAL BENEFIT
53 LIMITATION OR MAXIMUM FOR BENEFITS OR SERVICES THAT IS NOT EQUALLY
54 IMPOSED UPON ALL INDIVIDUALS IN THE SAME BENEFIT CATEGORY.

55 (3) THIS SUBSECTION SHALL NOT APPLY TO SHORT-TERM TRAVEL, ACCIDENT
56 ONLY, LIMITED OR SPECIFIED DISEASE, OR INDIVIDUAL CONVERSION POLICIES OR

1 CONTRACTS, NOR TO POLICIES OR CONTRACTS DESIGNED FOR ISSUANCE TO PERSONS
2 ELIGIBLE FOR COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
3 KNOWN AS MEDICARE, OR ANY OTHER SIMILAR COVERAGE UNDER STATE OR FEDERAL
4 GOVERNMENTAL PLANS.

5 (4) FOR PURPOSES OF THIS SUBSECTION, A "MANAGED CARE PRODUCT" SHALL
6 MEAN A POLICY WHICH REQUIRES THAT MEDICAL OR OTHER HEALTH CARE SERVICES
7 COVERED UNDER THE POLICY, OTHER THAN EMERGENCY CARE SERVICES, BE
8 PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY CARE PROVIDER, AND
9 THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE RENDERED BY A
10 HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S MANAGED CARE PROVID-
11 ER NETWORK. IN ADDITION, A MANAGED CARE PRODUCT SHALL ALSO MEAN THE
12 IN-NETWORK PORTION OF A CONTRACT WHICH REQUIRES THAT MEDICAL OR OTHER
13 HEALTH CARE SERVICES COVERED UNDER THE CONTRACT, OTHER THAN EMERGENCY
14 CARE SERVICES, BE PROVIDED BY, OR PURSUANT TO A REFERRAL FROM A PRIMARY
15 CARE PROVIDER, AND THAT SERVICES PROVIDED PURSUANT TO SUCH A REFERRAL BE
16 RENDERED BY A HEALTH CARE PROVIDER PARTICIPATING IN THE INSURER'S
17 MANAGED CARE PROVIDER NETWORK, IN ORDER FOR THE INSURED TO BE ENTITLED
18 TO THE MAXIMUM REIMBURSEMENT UNDER THE CONTRACT.

19 (PP) PATIENTS UNDERGOING ANY SURGERY OR RADIOTHERAPY PROCEDURE SHALL
20 BE PROVIDED INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THAT
21 PROCEDURE, AND THE POTENTIAL POST-PROCEDURE SYMPTOMS OF LYMPHEDEMA.
22 INFORMED CONSENT AGREEMENTS FOR ALL SURGERIES AND RADIATION THERAPIES
23 SHALL INCLUDE INFORMATION ON THE RISK OF LYMPHEDEMA ASSOCIATED WITH THE
24 ALTERNATIVE PROCEDURES.

25 S 7. This act shall take effect on the first of January next succeed-
26 ing the date on which it shall have become a law and shall apply to all
27 insurance policies, contracts and plans issued, renewed, modified,
28 altered or amended on or after such effective date.