

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 176 Session of  
1997

INTRODUCED BY HOLL, JANUARY 21, 1997

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
SEPTEMBER 29, 1997

AN ACT

1 ~~Providing mastectomy and breast cancer reconstructive surgery~~ <—  
2 ~~coverage standards for health insurance policies.~~  
3 AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN <—  
4 ACT RELATING TO INSURANCE; AMENDING, REVISING, AND  
5 CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF  
6 INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND  
7 PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS  
8 ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND  
9 FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND  
10 SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,  
11 ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY  
12 THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND  
13 REPEALING EXISTING LAWS," PROVIDING MASTECTOMY AND BREAST  
14 CANCER RECONSTRUCTIVE SURGERY COVERAGE STANDARDS FOR HEALTH  
15 INSURANCE POLICIES.

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2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 ~~Section 1.— Short title.~~

<—

5 ~~This act shall be known and may be cited as the Mastectomy  
6 and Breast Cancer Reconstructive Surgery Coverage Standards Act.~~

7 ~~Section 2.— Declaration of policy.~~

8 ~~The General Assembly finds and declares as follows:~~

9 ~~(1) Breast cancer is the most common cancer in American  
10 women, afflicting 182,000 women per year, striking one out of  
11 9 and killing 46,000 a year. Coping with this disease is a  
12 medical and emotional struggle since it carries with it the  
13 fear of disfigurement in a society that places great value on  
14 physical appearance.~~

15 ~~(2) Some insurance carriers deny coverage for breast  
16 reconstruction, considering the procedure not medically  
17 necessary. Most insurance companies will not cover procedures  
18 on the opposite breast to provide symmetry for the  
19 reconstruction, but do cover reconstruction of other body  
20 parts, which is discriminatory.~~

21 ~~Section 3.— Scope.~~

22 ~~This act shall not apply to the following types of policies:~~

23 ~~(1) Accident only.~~

24 ~~(2) Limited benefit.~~

25 ~~(3) Credit.~~

26 ~~(4) Dental.~~

27 ~~(5) Vision.~~

28 ~~(6) Specified disease.~~

29 ~~(7) Medicare supplement.~~

30 ~~(8) Civilian Health and Medical Program of the Uniformed~~

1 ~~Services (CHAMPUS) supplement.~~

2 ~~(9) Long term care or disability income.~~

3 ~~(10) Workers' compensation.~~

4 ~~(11) Automobile medical payment.~~

5 ~~Section 4. Definitions.~~

6 ~~The following words and phrases when used in this act shall~~  
7 ~~have the meanings given to them in this section unless the~~  
8 ~~context clearly indicates otherwise:~~

9 ~~"Health insurance policy." Any individual or group health~~  
10 ~~insurance policy, subscriber contract, certificate or plan which~~  
11 ~~provides medical or health care coverage by any health care~~  
12 ~~facility or licensed health care provider which is offered by or~~  
13 ~~is governed under any of the following:~~

14 ~~Act of May 17, 1921 (P.L.682, No.284), known as The~~  
15 ~~Insurance Company Law of 1921.~~

16 ~~Subarticle (f) of Article IV of the act of June 13, 1967~~  
17 ~~(P.L.31, No.21), known as the Public Welfare Code.~~

18 ~~Act of December 29, 1972 (P.L.1701, No.364), known as the~~  
19 ~~Health Maintenance Organization Act.~~

20 ~~Act of May 18, 1976 (P.L.123, No.54), known as the~~  
21 ~~Individual Accident and Sickness Insurance Minimum Standards~~  
22 ~~Act.~~

23 ~~Act of December 14, 1992 (P.L.835, No.134), known as the~~  
24 ~~Fraternal Benefit Societies Code.~~

25 ~~A nonprofit corporation subject to 40 Pa.C.S. Chs. 61~~  
26 ~~(relating to hospital plan corporations) and 63 (relating to~~  
27 ~~professional health services plan corporations).~~

28 ~~"Insurer." Any entity that issues an individual or group~~  
29 ~~health insurance policy, contract or plan described under the~~  
30 ~~definition of "health insurance policy" in this section.~~

1       ~~"Mastectomy." The removal of all or part of the breast for~~  
2 ~~medically necessary reasons, as determined by a licensed~~  
3 ~~physician.~~

4       ~~"Prosthetic devices." The use of initial and subsequent~~  
5 ~~artificial devices to replace the removed breast or portions~~  
6 ~~thereof, pursuant to an order of the patient's physician.~~

7       ~~"Reconstructive surgery." A surgical procedure performed~~  
8 ~~following a mastectomy on one breast or both breasts, as~~  
9 ~~determined by the treating physician, to reestablish symmetry~~  
10 ~~between the two breasts or alleviate functional impairment~~  
11 ~~caused by the mastectomy. This term shall include, but is not~~  
12 ~~limited to, augmentation mammoplasty, reduction mammoplasty and~~  
13 ~~mastopexy.~~

14       ~~"Symmetry between breasts." Approximate equality in size and~~  
15 ~~shape of the nondiseased breast with the diseased breast after~~  
16 ~~definitive reconstructive surgery on the diseased breast has~~  
17 ~~been performed.~~

18 ~~Section 5. Mastectomy coverage standards.~~

19       ~~(a) Outpatient care. No health insurance policy delivered,~~  
20 ~~issued, executed or renewed in this Commonwealth on or after the~~  
21 ~~effective date of this section shall require outpatient care~~  
22 ~~following a mastectomy performed in a health care facility.~~

23       ~~(b) Inpatient care. Policies described in subsection (a)~~  
24 ~~shall provide coverage for inpatient care following a mastectomy~~  
25 ~~for the length of stay that the treating physician determines is~~  
26 ~~necessary to meet generally accepted criteria for safe~~  
27 ~~discharge.~~

28       ~~(c) Limitations. Coverage under this section shall,~~  
29 ~~however, remain subject to any copayment, coinsurance or~~  
30 ~~deductible amounts set forth in the policy.~~

1 ~~Section 6. Breast cancer reconstructive surgery coverage.~~

2 ~~(a) Included coverage. Every health care policy which is~~  
3 ~~delivered, issued for delivery, renewed, extended or modified in~~  
4 ~~this Commonwealth by a health care insurer which provides~~  
5 ~~coverage for the surgical procedure known as mastectomy shall~~  
6 ~~also include coverage for prosthetic devices and reconstructive~~  
7 ~~surgery incident to the mastectomy.~~

8 ~~(b) Deductible and coinsurance. Coverage for prosthetic~~  
9 ~~devices and reconstructive surgery shall be subject to the~~  
10 ~~deductible and coinsurance conditions applied to the mastectomy~~  
11 ~~and all other terms and conditions applicable to other benefits.~~

12 ~~(c) Limitations. The coverage for prosthetic devices~~  
13 ~~inserted during reconstructive surgery and reconstructive~~  
14 ~~surgery pursuant to this act may be limited to such surgical~~  
15 ~~procedures performed within three years of the date of the~~  
16 ~~mastectomy.~~

17 ~~Section 7. Applicability.~~

18 ~~This act shall apply to all insurance policies, subscriber~~  
19 ~~contracts and group insurance certificates issued under any~~  
20 ~~group master policy delivered or issued for delivery on or after~~  
21 ~~the effective date of this act. This act shall also apply to all~~  
22 ~~renewals of contracts on any renewal date which is on or after~~  
23 ~~the effective date of this act.~~

24 ~~Section 8. Effective date.~~

25 ~~This act shall take effect in 90 days.~~

26 SECTION 1. THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN <—  
27 AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED BY ADDING A  
28 SECTION TO READ:

29 SECTION 633. MASTECTOMY AND BREAST CANCER RECONSTRUCTION.--

30 (A) (1) NO HEALTH INSURANCE POLICY DELIVERED, ISSUED, EXECUTED

1 OR RENEWED IN THIS COMMONWEALTH ON OR AFTER THE EFFECTIVE DATE  
2 OF THIS SECTION SHALL REQUIRE OUTPATIENT CARE FOLLOWING A  
3 MASTECTOMY PERFORMED IN A HEALTH CARE FACILITY.

4 (2) POLICIES DESCRIBED IN CLAUSE (1) OF THIS SUBSECTION  
5 SHALL PROVIDE COVERAGE FOR INPATIENT CARE FOLLOWING A MASTECTOMY  
6 FOR THE LENGTH OF STAY THAT THE TREATING PHYSICIAN DETERMINES IS  
7 NECESSARY TO MEET GENERALLY ACCEPTED CRITERIA FOR SAFE  
8 DISCHARGE.

9 (3) SUCH POLICIES SHALL ALSO PROVIDE COVERAGE FOR A HOME ←  
10 HEALTH CARE VISIT THAT THE TREATING PHYSICIAN DETERMINES IS  
11 NECESSARY WITHIN FORTY-EIGHT HOURS AFTER DISCHARGE, WHEN THE  
12 DISCHARGE OCCURS WITHIN FORTY-EIGHT HOURS FOLLOWING ADMISSION  
13 FOR THE MASTECTOMY.

14 ~~(3)~~ (4) COVERAGE UNDER THIS SECTION SHALL, HOWEVER, REMAIN ←  
15 SUBJECT TO ANY COPAYMENT, COINSURANCE OR DEDUCTIBLE AMOUNTS SET  
16 FORTH IN THE POLICY.

17 (B) (1) EVERY HEALTH CARE POLICY WHICH IS DELIVERED, ISSUED  
18 FOR DELIVERY, RENEWED, EXTENDED OR MODIFIED IN THIS COMMONWEALTH  
19 BY A HEALTH CARE INSURER WHICH PROVIDES COVERAGE FOR THE  
20 SURGICAL PROCEDURE KNOWN AS MASTECTOMY SHALL ALSO INCLUDE  
21 COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE SURGERY  
22 INCIDENT TO ~~THE~~ ANY MASTECTOMY. ←

23 (2) COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE  
24 SURGERY SHALL BE SUBJECT TO THE DEDUCTIBLE AND COINSURANCE  
25 CONDITIONS APPLIED TO THE MASTECTOMY AND ALL OTHER TERMS AND  
26 CONDITIONS APPLICABLE TO OTHER BENEFITS.

27 (3) THE COVERAGE FOR PROSTHETIC DEVICES INSERTED DURING  
28 RECONSTRUCTIVE SURGERY AND RECONSTRUCTIVE SURGERY PURSUANT TO  
29 THIS SECTION MAY BE LIMITED TO SUCH SURGICAL PROCEDURES  
30 PERFORMED WITHIN ~~THREE~~ SIX YEARS OF THE DATE OF THE MASTECTOMY. ←

1        (C) THIS SECTION SHALL NOT APPLY TO THE FOLLOWING TYPES OF  
2 POLICIES:

3        (1) ACCIDENT ONLY.

4        (2) LIMITED BENEFIT.

5        (3) CREDIT.

6        (4) DENTAL.

7        (5) VISION.

8        (6) SPECIFIED DISEASE.

9        (7) MEDICARE SUPPLEMENT.

10       (8) CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED  
11 SERVICES (CHAMPUS) SUPPLEMENT.

12       (9) LONG-TERM CARE OR DISABILITY INCOME.

13       (10) WORKERS' COMPENSATION.

14       (11) AUTOMOBILE MEDICAL PAYMENT.

15       (D) (1) THE TERM "HEALTH INSURANCE POLICY" WHEN USED IN  
16 THIS SECTION MEANS ANY INDIVIDUAL OR GROUP HEALTH INSURANCE  
17 POLICY, SUBSCRIBER CONTRACT, CERTIFICATE OR PLAN WHICH PROVIDES  
18 MEDICAL OR HEALTH CARE COVERAGE BY ANY HEALTH CARE FACILITY OR  
19 LICENSED HEALTH CARE PROVIDER WHICH IS OFFERED BY OR IS GOVERNED  
20 UNDER THIS ACT OR ANY OF THE FOLLOWING:

21       (I) SUBARTICLE (F) OF ARTICLE IV OF THE ACT OF JUNE 13, 1967  
22 (P.L.31, NO.21), KNOWN AS THE "PUBLIC WELFARE CODE."

23       (II) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN  
24 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

25       (III) THE ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS THE  
26 "INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS  
27 ACT."

28       (IV) THE ACT OF DECEMBER 14, 1992 (P.L.835, NO.134), KNOWN  
29 AS THE "FRATERNAL BENEFIT SOCIETIES CODE."

30       (V) A NONPROFIT CORPORATION SUBJECT TO 40 PA.C.S. CHS. 61

1 (RELATING TO HOSPITAL PLAN CORPORATIONS) AND 63 (RELATING TO  
2 PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).

3 (2) THE TERM "INSURER" WHEN USED IN THIS SECTION MEANS ANY  
4 ENTITY THAT ISSUES AN INDIVIDUAL OR GROUP HEALTH INSURANCE  
5 POLICY, CONTRACT OR PLAN DESCRIBED UNDER CLAUSE (1) OF THIS  
6 SUBSECTION.

7 (3) THE TERM "MASTECTOMY" WHEN USED IN THIS SECTION MEANS  
8 THE REMOVAL OF ALL OR PART OF THE BREAST FOR MEDICALLY NECESSARY  
9 REASONS, AS DETERMINED BY A LICENSED PHYSICIAN.

10 (4) THE TERM "PROSTHETIC DEVICES" WHEN USED IN THIS SECTION  
11 MEANS THE USE OF INITIAL AND SUBSEQUENT ARTIFICIAL DEVICES TO  
12 REPLACE THE REMOVED BREAST OR PORTIONS THEREOF, PURSUANT TO AN  
13 ORDER OF THE PATIENT'S PHYSICIAN.

14 (5) THE TERM "RECONSTRUCTIVE SURGERY" WHEN USED IN THIS  
15 SECTION MEANS A SURGICAL PROCEDURE PERFORMED ON ONE BREAST OR <—  
16 BOTH BREASTS FOLLOWING A MASTECTOMY ~~ON ONE BREAST OR BOTH~~ <—  
17 BREASTS, AS DETERMINED BY THE TREATING PHYSICIAN, TO REESTABLISH  
18 SYMMETRY BETWEEN THE TWO BREASTS OR ALLEVIATE FUNCTIONAL  
19 IMPAIRMENT CAUSED BY THE MASTECTOMY. THE TERM "RECONSTRUCTIVE  
20 SURGERY" SHALL INCLUDE, BUT IS NOT LIMITED TO, AUGMENTATION  
21 MAMMOPLASTY, REDUCTION MAMMOPLASTY AND MASTOPEXY.

22 (6) THE TERM "SYMMETRY BETWEEN BREASTS" WHEN USED IN THIS  
23 SECTION MEANS APPROXIMATE EQUALITY IN SIZE AND SHAPE OF THE  
24 NONDISEASED BREAST WITH THE DISEASED BREAST AFTER DEFINITIVE  
25 RECONSTRUCTIVE SURGERY ON THE DISEASED OR NONDISEASED BREAST HAS <—  
26 BEEN PERFORMED.

27 SECTION 2. THIS ACT SHALL APPLY TO ALL INSURANCE POLICIES,  
28 SUBSCRIBER CONTRACTS AND GROUP INSURANCE CERTIFICATES ISSUED  
29 UNDER ANY GROUP MASTER POLICY DELIVERED OR ISSUED FOR DELIVERY  
30 ON OR AFTER THE EFFECTIVE DATE OF THIS ACT. THIS ACT SHALL ALSO

1 APPLY TO ALL RENEWALS OF CONTRACTS ON ANY RENEWAL DATE WHICH IS  
2 ON OR AFTER THE EFFECTIVE DATE OF THIS ACT.  
3 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 90 DAYS.