

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 176 Session of  
1997

INTRODUCED BY HOLL, JANUARY 21, 1997

AS AMENDED ON THIRD CONSIDERATION, APRIL 28, 1997

## AN ACT

1 Providing mastectomy and breast cancer reconstructive surgery  
2 coverage standards for health insurance policies.

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The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

~~CHAPTER 1~~ $\leftarrow$ 

~~PRELIMINARY PROVISIONS~~

~~Section 101. Short title.~~

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

~~Section 102. Scope.~~

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

~~(1) Accident only.~~

~~(2) Limited benefit.~~

~~(3) Credit.~~

~~(4) Dental.~~

~~(5) Vision.~~

~~(6) Specified disease.~~

~~(7) Medicare supplement.~~

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

~~Services (CHAMPUS) supplement.~~

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

~~(10) Workers' compensation.~~

~~(11) Automobile medical payment.~~

1 CHAPTER 3

2 MASTECTOMY COVERAGE

3 ~~Section 301. Definitions.~~

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

7 ~~"Health insurance policy." Any individual or group health~~  
8 ~~insurance policy, contract or plan which provides medical or~~  
9 ~~health care coverage by any health care facility or licensed~~  
10 ~~health care provider on an expense incurred service or prepaid~~  
11 ~~basis and which is offered by or is governed under any of the~~  
12 ~~following:~~

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

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

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

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

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

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

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

30 ~~Section 302. Mastectomy coverage standards.~~

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

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

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

#### ~~CHAPTER 5~~

#### ~~BREAST CANCER RECONSTRUCTIVE SURGERY COVERAGE~~

#### ~~Section 501. Declaration of policy.~~

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

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

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

#### ~~Section 502. Definitions.~~

~~The following words and phrases when used in this chapter~~

~~shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Health insurance policy." Any individual or group health, sickness or accident policy or subscriber contract or certificate issued by an entity subject to any one of the following:~~

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

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

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

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

~~40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).~~

~~Medical assistance.~~

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

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

~~"Reconstructive surgery." A surgical procedure performed following a mastectomy on one breast or both breasts, as determined by a licensed physician, to restore and achieve symmetry between the two breasts. This term shall include, but is not limited to, augmentation mammoplasty, reduction~~

1 ~~mammoplasty and mastopexy.~~

2 ~~"Symmetry between breasts."—Equality in size of the~~  
3 ~~nondiseased breast with the diseased breast after definitive~~  
4 ~~reconstructive surgery on the diseased breast has been~~  
5 ~~performed.~~

6 ~~Section 503.—Mandated coverage for reconstructive surgery~~  
7 ~~incident to mastectomy.~~

8 ~~(a)—Included coverage.—Every health care policy which is~~  
9 ~~delivered, issued for delivery, renewed, extended or modified in~~  
10 ~~this Commonwealth by a health care insurer which provides~~  
11 ~~coverage for the surgical procedure known as mastectomy shall~~  
12 ~~also include coverage for prosthetic devices and reconstructive~~  
13 ~~surgery incident to the mastectomy, which shall include~~  
14 ~~reconstructive surgery to restore and achieve symmetry of the~~  
15 ~~opposite breast after mastectomy.~~

16 ~~(b)—Deductible and coinsurance.—Coverage for prosthetic~~  
17 ~~devices and reconstructive surgery shall be subject to the~~  
18 ~~deductible and coinsurance conditions applied to the mastectomy~~  
19 ~~and all other terms and conditions applicable to other benefits.~~

20 ~~(c)—Limitations.—In the event that a mastectomy is~~  
21 ~~performed and there is no evidence of malignancy, the coverage~~  
22 ~~for prosthetic devices inserted during reconstructive surgery~~  
23 ~~and reconstructive surgery in this section may be limited to~~  
24 ~~such surgical procedures performed within two years of the date~~  
25 ~~of the mastectomy.~~

26 ~~Section 504.—Applicability.~~

27 ~~This chapter 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 chapter. This chapter~~

~~shall also apply to all renewals of contracts on any renewal date which is on or after the effective date of this chapter.~~

~~CHAPTER 51~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 5101. Effective date.~~

~~This act shall take effect as follows:~~

~~(1) Chapter 3 shall take effect in 90 days.~~

~~(2) This section shall take effect immediately.~~

~~(3) The remainder of this act shall take effect in 60 days.~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE MASTECTOMY AND BREAST CANCER RECONSTRUCTIVE SURGERY COVERAGE STANDARDS ACT.

SECTION 2. DECLARATION OF POLICY.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) BREAST CANCER IS THE MOST COMMON CANCER IN AMERICAN WOMEN, AFFLICTING 182,000 WOMEN PER YEAR, STRIKING ONE OUT OF 9 AND KILLING 46,000 A YEAR. COPING WITH THIS DISEASE IS A MEDICAL AND EMOTIONAL STRUGGLE SINCE IT CARRIES WITH IT THE FEAR OF DISFIGUREMENT IN A SOCIETY THAT PLACES GREAT VALUE ON PHYSICAL APPEARANCE.

(2) SOME INSURANCE CARRIERS DENY COVERAGE FOR BREAST RECONSTRUCTION, CONSIDERING THE PROCEDURE NOT MEDICALLY NECESSARY. MOST INSURANCE COMPANIES WILL NOT COVER PROCEDURES ON THE OPPOSITE BREAST TO PROVIDE SYMMETRY FOR THE RECONSTRUCTION, BUT DO COVER RECONSTRUCTION OF OTHER BODY PARTS, WHICH IS DISCRIMINATORY.

SECTION 3. SCOPE.

THIS ACT SHALL NOT APPLY TO THE FOLLOWING TYPES OF POLICIES:

(1) ACCIDENT ONLY.

- 1           (2)   LIMITED BENEFIT.
- 2           (3)   CREDIT.
- 3           (4)   DENTAL.
- 4           (5)   VISION.
- 5           (6)   SPECIFIED DISEASE.
- 6           (7)   MEDICARE SUPPLEMENT.
- 7           (8)   CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED
- 8   SERVICES (CHAMPUS) SUPPLEMENT.
- 9           (9)   LONG-TERM CARE OR DISABILITY INCOME.
- 10          (10)   WORKERS' COMPENSATION.
- 11          (11)   AUTOMOBILE MEDICAL PAYMENT.

12   SECTION 4.   DEFINITIONS.

13       THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
14   HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
15   CONTEXT CLEARLY INDICATES OTHERWISE:

16       "HEALTH INSURANCE POLICY."   ANY INDIVIDUAL OR GROUP HEALTH  
17   INSURANCE POLICY, SUBSCRIBER CONTRACT, CERTIFICATE OR PLAN WHICH  
18   PROVIDES MEDICAL OR HEALTH CARE COVERAGE BY ANY HEALTH CARE  
19   FACILITY OR LICENSED HEALTH CARE PROVIDER WHICH IS OFFERED BY OR  
20   IS GOVERNED UNDER ANY OF THE FOLLOWING:

21           ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE  
22   INSURANCE COMPANY LAW OF 1921.

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

25           ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN AS THE  
26   HEALTH MAINTENANCE ORGANIZATION ACT.

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

30           ACT OF DECEMBER 14, 1992 (P.L.835, NO.134), KNOWN AS THE



FRATERNAL BENEFIT SOCIETIES CODE.

A NONPROFIT CORPORATION SUBJECT TO 40 PA.C.S. CHS. 61  
(RELATING TO HOSPITAL PLAN CORPORATIONS) AND 63 (RELATING TO  
PROFESSIONAL HEALTH SERVICES PLAN CORPORATIONS).

"INSURER." ANY ENTITY THAT ISSUES AN INDIVIDUAL OR GROUP  
HEALTH INSURANCE POLICY, CONTRACT OR PLAN DESCRIBED UNDER THE  
DEFINITION OF "HEALTH INSURANCE POLICY" IN THIS SECTION.

"MASTECTOMY." THE REMOVAL OF ALL OR PART OF THE BREAST FOR  
MEDICALLY NECESSARY REASONS, AS DETERMINED BY A LICENSED  
PHYSICIAN.

"PROSTHETIC DEVICES." THE USE OF INITIAL AND SUBSEQUENT  
ARTIFICIAL DEVICES TO REPLACE THE REMOVED BREAST OR PORTIONS  
THEREOF, PURSUANT TO AN ORDER OF THE PATIENT'S PHYSICIAN.

"RECONSTRUCTIVE SURGERY." A SURGICAL PROCEDURE PERFORMED  
FOLLOWING A MASTECTOMY ON ONE BREAST OR BOTH BREASTS, AS  
DETERMINED BY THE TREATING PHYSICIAN, TO REESTABLISH SYMMETRY  
BETWEEN THE TWO BREASTS OR ALLEVIATE FUNCTIONAL IMPAIRMENT  
CAUSED BY THE MASTECTOMY. THIS TERM SHALL INCLUDE, BUT IS NOT  
LIMITED TO, AUGMENTATION MAMMOPLASTY, REDUCTION MAMMOPLASTY AND  
MASTOPEXY.

"SYMMETRY BETWEEN BREASTS." APPROXIMATE EQUALITY IN SIZE AND  
SHAPE OF THE NONDISEASED BREAST WITH THE DISEASED BREAST AFTER  
DEFINITIVE RECONSTRUCTIVE SURGERY ON THE DISEASED BREAST HAS  
BEEN PERFORMED.

#### SECTION 5. MASTECTOMY COVERAGE STANDARDS.

(A) OUTPATIENT CARE.--NO HEALTH INSURANCE POLICY DELIVERED,  
ISSUED, EXECUTED OR RENEWED IN THIS COMMONWEALTH ON OR AFTER THE  
EFFECTIVE DATE OF THIS SECTION SHALL REQUIRE OUTPATIENT CARE  
FOLLOWING A MASTECTOMY PERFORMED IN A HEALTH CARE FACILITY.

(B) INPATIENT CARE.--POLICIES DESCRIBED IN SUBSECTION (A)

1 SHALL PROVIDE COVERAGE FOR INPATIENT CARE FOLLOWING A MASTECTOMY  
2 FOR THE LENGTH OF STAY THAT THE TREATING PHYSICIAN DETERMINES IS  
3 NECESSARY TO MEET GENERALLY ACCEPTED CRITERIA FOR SAFE  
4 DISCHARGE.

5 (C) LIMITATIONS.--COVERAGE UNDER THIS SECTION SHALL,  
6 HOWEVER, REMAIN SUBJECT TO ANY COPAYMENT, COINSURANCE OR  
7 DEDUCTIBLE AMOUNTS SET FORTH IN THE POLICY.

8 SECTION 6. BREAST CANCER RECONSTRUCTIVE SURGERY COVERAGE.

9 (A) INCLUDED COVERAGE.--EVERY HEALTH CARE POLICY WHICH IS  
10 DELIVERED, ISSUED FOR DELIVERY, RENEWED, EXTENDED OR MODIFIED IN  
11 THIS COMMONWEALTH BY A HEALTH CARE INSURER WHICH PROVIDES  
12 COVERAGE FOR THE SURGICAL PROCEDURE KNOWN AS MASTECTOMY SHALL  
13 ALSO INCLUDE COVERAGE FOR PROSTHETIC DEVICES AND RECONSTRUCTIVE  
14 SURGERY INCIDENT TO THE MASTECTOMY.

15 (B) DEDUCTIBLE AND COINSURANCE.--COVERAGE FOR PROSTHETIC  
16 DEVICES AND RECONSTRUCTIVE SURGERY SHALL BE SUBJECT TO THE  
17 DEDUCTIBLE AND COINSURANCE CONDITIONS APPLIED TO THE MASTECTOMY  
18 AND ALL OTHER TERMS AND CONDITIONS APPLICABLE TO OTHER BENEFITS.

19 (C) LIMITATIONS.--THE COVERAGE FOR PROSTHETIC DEVICES  
20 INSERTED DURING RECONSTRUCTIVE SURGERY AND RECONSTRUCTIVE  
21 SURGERY PURSUANT TO THIS ACT MAY BE LIMITED TO SUCH SURGICAL  
22 PROCEDURES PERFORMED WITHIN THREE YEARS OF THE DATE OF THE  
23 MASTECTOMY.

24 SECTION 7. APPLICABILITY.

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

1 SECTION 8. EFFECTIVE DATE.

2 THIS ACT SHALL TAKE EFFECT IN 90 DAYS.