SPONSOR: Rep. K. Williams & Rep. Dorsey Walker & Rep. Bush & Sen. Hansen
Reps. Baumbach, Carson, Chukwuocha, Harris, Lambert, Morrison, Wilson-Anton; Sens. Buckson, Gay, Hoffner, Mantzavinos, Pinkney, Sokola, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 253
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 16, 18, 29, AND 31 OF THE DELAWARE CODE RELATING TO MAMMOGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter I, Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3370G. Annual mammograms.

(a) As used in this section, "Carrier" means any entity that provides health insurance in this State that is subject to the provisions of this chapter. "Carrier" includes an insurance company, health service corporation, health maintenance organization, managed care organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

(b) All carriers shall provide coverage for annual mammograms for the purpose of early detection for a woman 40 years of age or older, with or without referral from the woman's health care provider.

(c) This section does not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term disability income, or other limited benefit health insurance policies.

Section 2. Amend § 3552, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3552. Cancer screening tests.

(c) All group and blanket health insurance policies which are delivered or issued for delivery in this State by any health insurer or health service corporation and which provide benefits for outpatient services shall provide to covered persons residing or having their principal place of employment in this State a benefit for:

(1) Periodic mammographic examinations on the following schedule:

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a. A base line mammogram for asymptomatic women at least age 35, or as otherwise declared appropriate by the Director of the Division of Public Health or the Director's designee from time to time.

b. ~~A mammogram every 1 to 2 years for asymptomatic women age 40 to 50 but no sooner than 2 years after a woman's baseline mammogram, or as otherwise declared appropriate by the woman's attending physician or the Director of the Division of Public Health or the Director's designee from time to time.~~ An annual mammogram for women age 40 and older, regardless of whether a referral is provided by a woman's healthcare provider.

~~c. A mammogram every year for asymptomatic women age 50 and over, or as otherwise declared appropriate by the Director of the Division of Public Health or the Director's designee from time to time.~~

Section 3. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5218. Mammogram coverage.

The plan shall provide coverage for annual mammograms for the purpose of early detection for a woman 40 years of age or older, with or without referral from the woman's health care provider.

Section 4. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 533. Mammogram referrals.

(a) "Carrier" means any entity that provides health insurance under § 505(3) of this title.

(b) Carriers shall provide coverage for an annual mammogram for the purpose of early detection for a woman 40 years of age or older, with or without referral from the woman's health care provider.

Section 5. Amend Chapter 30I, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 30I. ~~BREAST DENSITY NOTIFICATION ACT~~MAMMOGRAMS

§ 3001I. Provision of information relating to mammography reports.

(a) On completion of a mammogram, a mammography facility certified by the United States Food and Drug Administration shall provide to each patient a notice containing the results of the mammogram, including information about the patient's breast density based on the Breast Imaging Reporting and Data System established by the American College of Radiology. The form of the notice shall be based on the guidance established by the American College of Radiology. The Delaware Radiological Society shall work with mammogram facilities in this State regarding the content of the notice and shall provide mammogram facilities with any updated language based on guidance from the American College of

Radiology. The notice shall include a statement that a report of the results has been sent to the patient's physician, and the patient should discuss the report, including the findings regarding breast density, with ~~her~~ the patient's physician. If the patient has no physician, or has not provided the mammography facility with the physician's name or other identifying information, the notice must include a referral to at least one of the following:

(1) A hospital licensed under Chapter 10 of Title 16, whether a nonprofit subject to 26 U.S.C. § 501(c)(3), a not-for-profit entity, or a for-profit entity, known or believed by the mammography facility to have sufficient equipment and staff to discuss the results with the patient and coordinate or recommend appropriate care based on the results of the mammogram.

(2) An outpatient clinic or facility affiliated with a hospital or operating under the license of a hospital as defined in Chapter 10 of Title 16, known or believed by the mammography facility to have sufficient equipment and staff to discuss the results with the patient and coordinate or recommend appropriate care based on the results of the mammogram.

(b) Notwithstanding any other law, this section does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

(c) The information required by this section or evidence that a person violated this section is not admissible in a civil, judicial or administrative proceeding.

(d) This section may not be construed to require a notice regarding breast density to be sent to a patient that is inconsistent with the provisions of the Federal Mammography Quality Standards Act of 1992 [Pub. L. 102-539, 106 Stat. 3547], or regulations adopted under the Act.

(e) This notice may be sent with the patient's mammogram results or as a separate communication to the patient.

§ 3002I. Provision of mammograms or referrals for self-referred patients.

A mammography facility must either provide a mammogram to a patient who requests a mammogram without a referral from a physician or provide written notice to the patient that the facility does not perform mammograms on self-referred patients and provide a written referral to at least one of the following:

(1) A hospital licensed under Chapter 10 of Title 16, whether a nonprofit subject to 26 U.S.C. § 501(c)(3), a not-for-profit entity, or a for-profit entity, known or believed by the mammography facility to have sufficient equipment and staff to assist the patient with obtaining a mammogram, discussing the results with the patient, and coordinating or recommending appropriate care based on the results of the mammogram.

(2) An outpatient clinic or facility affiliated with a hospital or operating under the license of a hospital as defined in Chapter 10 of Title 16, known or believed by the mammography facility to have sufficient equipment and

staff to assist the patient with obtaining a mammogram, discussing the results with the patient, and coordinating or recommending appropriate care based on the results of the mammogram.