

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2471**

BY DELEGATES ELLINGTON, SUMMERS, ROWAN,  
SOBONYA, HOLLEN, ROHRBACH, LONGSTRETH AND FRICH

[Originating in the Committee on Finance;

March 15, 2107]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §5-16-7b; to amend and reenact §16-5A-2 of said code; to amend said code  
3 by adding thereto a new section, designated §33-15-4o; to amend and reenact §33-16-3g  
4 of said code; to amend said code by adding thereto a new section, designated §33-16-  
5 3aa; to amend and reenact §33-24-7b of said code; to amend said code by adding thereto  
6 a new section, designated §33-24-7p; to amend said code by adding thereto a new  
7 section, designated §33-25-8m; and to amend said code by adding thereto a new section,  
8 designated §33-25A-8o, all relating to breast cancer screening; requiring director to  
9 develop certain information regarding breast density for use in educating patients;  
10 requiring director to work with radiologists and mammography facilities regarding  
11 dissemination of certain information; and requiring that certain breast cancer screening be  
12 included within certain health insurance policies.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §5-16-7b; that §16-5A-2 be amended and reenacted; that said code be  
3 amended by adding thereto a new section, designated §33-15-4o; that §33-16-3g of said code be  
4 amended and reenacted; that said code be amended by adding thereto a new section, designated  
5 §33-16-3aa; that §33-24-7b of said code be amended and reenacted; that said code be amended  
6 by adding thereto a new section, designated §33-24-7p; that said code be amended by adding  
7 thereto a new section, designated §33-25-8m; and that said code be amended by adding thereto  
8 a new section, designated §33-25A-8o, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-7b. Required coverage for breast cancer screenings.**

1           (a) The agency shall provide coverage for the cost of health care services pursuant to this  
2 article for the cost of the following health care services:

3           (1) One baseline mammogram examination for women who are at least thirty but less than  
4 forty years of age; a mammogram examination every year for women age forty and over; and, in  
5 the case of a woman who is under forty years of age and has a family history of breast cancer or  
6 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
7 medically necessary by the woman's health care provider; and

8           (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
9 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
10 Data System established by the American College of Radiology or if a woman is believed to be  
11 at increased risk for breast cancer due to family history or prior personal history of breast cancer,  
12 positive genetic testing, or other indications as determined by a woman's physician or advanced  
13 practice nurse.

14           (b) This section applies to all coverage issued by this agency delivered, issued for delivery,  
15 reissued, or extended in the state on and after January 1, 2018, or at any time thereafter when  
16 any term of the policy, contract, or plan is changed or any premium adjustment is made.

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 5A. CANCER CONTROL.**

**§16-5A-2. Educational program.**

1           (a) The director shall formulate and put into effect throughout the State an educational  
2 program for the purpose of preventing cancer and of aiding in its early diagnosis, and for the  
3 purpose of giving information to hospitals and cancer patients concerning the proper treatment.

4 In furtherance of this program, the director may assist and cooperate with any state or national  
5 organization conducting an educational program for the prevention of cancer.

6 (b) In furtherance of providing education to cancer patients concerning the prevention and  
7 treatment of cancer, the director shall develop standard informational language to be included in  
8 mammogram results given to the patient regarding high breast density, including a statement that  
9 high breast density is not abnormal, the potential risks from high breast density, the benefits of  
10 additional breast screening and the benefits of further communication with the patient's primary  
11 care physician regarding the density of the patient's breast. The director shall work with  
12 radiologists and mammography facilities to include with mammogram results given to the patient,  
13 a statement of the patient's breast density and dissemination of the standard information  
14 regarding breast density developed by the director pursuant to this section.

15 (c) This section does not create a standard of care, obligation or duty that would provide  
16 the basis for a private cause of action.

## CHAPTER 33. INSURANCE.

### ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

#### §33-15-4o. Required coverage for breast cancer screenings.

1 (a) An insurance policy issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for laboratory or X-ray services shall provide coverage for the cost  
3 of the following health care services:

4 (1) One baseline mammogram examination for women who are at least thirty but less than  
5 forty years of age; a mammogram examination every year for women age forty and over; and, in  
6 the case of a woman who is under forty years of age and has a family history of breast cancer or  
7 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
8 medically necessary by the woman's health care provider; and

9           (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
10 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
11 Data System established by the American College of Radiology or if a woman is believed to be  
12 at increased risk for breast cancer due to family history or prior personal history of breast cancer,  
13 positive genetic testing, or other indications as determined by a woman's physician or advanced  
14 practice nurse.

15           (b) The requirements of this section shall apply to all insurance policies issued by an  
16 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
17 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan  
18 is changed or any premium adjustment is made.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3g. Third party reimbursement for mammography, pap smear or human papilloma virus testing.**

1           ~~Notwithstanding any provision of any policy, provision, contract, plan or agreement to~~  
2 ~~which this article applies, whenever~~ If reimbursement or indemnity for laboratory or X-ray services  
3 are covered, reimbursement or indemnification shall may not be denied for any of the following  
4 when performed for cancer screening or diagnostic purposes, at the direction of a person licensed  
5 to practice medicine and surgery by the Board of Medicine:

6           ~~(1) Mammograms when medically appropriate and consistent with the current guidelines~~  
7 ~~from the United States Preventive Services Task Force.~~

8           ~~(2) A pap smear, either conventional or liquid-based cytology, whichever is medically~~  
9 appropriate and consistent with the current guidelines from the United States Preventive Services  
10 Task Force or The American College of Obstetricians and Gynecologists, for women age eighteen  
11 or over; and

12           ~~(3)~~ (2) A test for the human papilloma virus (HPV) for women age eighteen or over, when  
13 medically appropriate and consistent with the current guidelines from either the United States

14 Preventive Services Task Force or The American College of Obstetricians and Gynecologists for  
15 women age eighteen and over.

16 A policy, provision, contract, plan or agreement may apply to mammograms, pap smears  
17 or human papilloma virus (HPV) test the same deductibles, coinsurance and other limitations as  
18 apply to other covered services.

**§33-16-3aa. Required coverage for breast cancer screenings.**

1 An insurance policy issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for laboratory or X-ray services shall provide coverage for the cost  
3 of the following health care services:

4 (1) One baseline mammogram examination for women who are at least thirty but less than  
5 forty years of age; a mammogram examination every year for women age forty and over; and, in  
6 the case of a woman who is under forty years of age and has a family history of breast cancer or  
7 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
8 medically necessary by the woman's health care provider; and

9 (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
10 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
11 Data System established by the American College of Radiology or if a woman is believed to be  
12 at increased risk for breast cancer due to family history or prior personal history of breast cancer,  
13 positive genetic testing, or other indications as determined by a woman's physician or advanced  
14 practice nurse.

15 (b) The requirements of this section shall apply to all insurance policies issued by an  
16 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
17 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan  
18 is changed or any premium adjustment is made.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.**

**§33-24-7b. Third party reimbursement for mammography, pap smear or human papilloma virus testing.**

1           (a) ~~Notwithstanding any provision of any policy, provision, contract, plan or agreement to~~  
2 ~~which this article applies, whenever~~ If reimbursement or indemnity for laboratory or X-ray services  
3 are covered, reimbursement or indemnification shall may not be denied for any of the following  
4 when performed for cancer screening or diagnostic purposes: ~~at the direction of a person licensed~~  
5 ~~to practice medicine and surgery by the Board of Medicine:~~

6           (1) ~~Mammograms when medically appropriate and consistent with the current guidelines~~  
7 ~~from the United States Preventive Services Task Force;~~

8           (2) A pap smear, ~~either conventional or liquid-based cytology, whichever~~ is medically  
9 appropriate and consistent with the current guidelines from either the United States Preventive  
10 Services Task Force or The American College of Obstetricians and Gynecologists, for women  
11 age eighteen or over; or

12           (3) (2) A test for the human papilloma virus (HPV), when medically appropriate and  
13 consistent with the current guidelines from either the United States Preventive Services Task  
14 Force or The American College of Obstetricians and Gynecologists, for women age eighteen or  
15 over.

16           (b) A policy, provision, contract, plan or agreement may apply to mammograms, pap  
17 smears or human papilloma virus (HPV) test the same deductibles, coinsurance and other  
18 limitations as apply to other covered services.

**§33-24-7p. Required coverage for breast cancer screenings.**



1           (a) A contract, plan or agreement issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for laboratory or X-ray services shall provide coverage for the cost  
3 of the following health care services:

4           (1) One baseline mammogram examination for women who are at least thirty but less than  
5 forty years of age; a mammogram examination every year for women age forty and over; and, in  
6 the case of a woman who is under forty years of age and has a family history of breast cancer or  
7 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
8 medically necessary by the woman's health care provider; and

9           (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
10 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
11 Data System established by the American College of Radiology or if a woman is believed to be  
12 at increased risk for breast cancer due to family history or prior personal history of breast cancer,  
13 positive genetic testing, or other indications as determined by a woman's physician or advanced  
14 practice nurse.

15           (b) The requirements of this section shall apply to all insurance policies issued by an  
16 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
17 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan  
18 is changed or any premium adjustment is made.

**ARTICLE 25. HEALTH CARE CORPORATIONS.**

**§33-25-8m. Required coverage for breast cancer screenings.**

1           (a) A contract, plan or agreement issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for laboratory or X-ray services shall provide coverage for the cost  
3 of the following health care services:

4           (1) One baseline mammogram examination for women who are at least thirty but less than  
5 forty years of age; a mammogram examination every year for women age forty and over; and, in  
6 the case of a woman who is under forty years of age and has a family history of breast cancer or

7 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
8 medically necessary by the woman's health care provider; and

9 (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
10 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
11 Data System established by the American College of Radiology or if a woman is believed to be  
12 at increased risk for breast cancer due to family history or prior personal history of breast cancer,  
13 positive genetic testing, or other indications as determined by a woman's physician or advanced  
14 practice nurse.

15 (b) The requirements of this section apply to all insurance policies issued by an insurer  
16 pursuant to this article delivered, issued for delivery, reissued, or extended in the state on and  
17 after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan is  
18 changed or any premium adjustment is made.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-8o. Required coverage for breast cancer screenings.**

1 (a) A contract, plan or agreement issued by an insurer pursuant to this article that provides  
2 reimbursement or indemnity for laboratory or X-ray services shall provide coverage for the cost  
3 of the following health care services:

4 (1) One baseline mammogram examination for women who are at least thirty but less than  
5 forty years of age; a mammogram examination every year for women age forty and over; and, in  
6 the case of a woman who is under forty years of age and has a family history of breast cancer or  
7 other breast cancer risk factors, a mammogram examination at such age and intervals as deemed  
8 medically necessary by the woman's health care provider; and

9 (2) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram  
10 demonstrates heterogeneous or dense breast tissue based on the Breast Imaging Reporting and  
11 Data System established by the American College of Radiology or if a woman is believed to be  
12 at increased risk for breast cancer due to family history or prior personal history of breast cancer,

13 positive genetic testing, or other indications as determined by a woman's physician or advanced  
14 practice nurse.

15 (b) The requirements of this section shall apply to all insurance policies issued by an  
16 insurer pursuant to this article delivered, issued for delivery, reissued, or extended in the state on  
17 and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan  
18 is changed or any premium adjustment is made.