

SENATE, No. 821

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

Senators Codey, Brown and Madden

SYNOPSIS

Requires hospitals to provide breast cancer patients with information concerning reconstructive surgery; prohibits certain provisions in managed care plan contracts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning breast cancer and supplementing Title 26 of the
2 Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. Each general hospital licensed pursuant to P.L.1971, c.136
8 (C.26:2H-1 et seq.) that provides surgical services for the treatment
9 of breast cancer, the breast cancer gene, or other breast abnormality,
10 including, but not limited to, mastectomy surgery, lymph node
11 dissection, or lumpectomy, shall ensure that each patient receiving
12 treatment for breast cancer is provided with written notice of: (1) the
13 patient's right to seek a consultation with a board-certified or board-
14 eligible plastic surgeon of the patient's choosing who provides breast
15 reconstructive services, regardless of whether the plastic surgeon is
16 affiliated with the general hospital or a health care provider network,
17 concerning the patient's treatment options during and after the
18 provision of surgical services, including the use of a prosthesis and
19 the option of undergoing reconstructive surgery during or after the
20 provision of surgical services for the treatment of breast cancer, the
21 breast cancer gene, or other breast abnormality; (2) the patient's right
22 to obtain reconstructive surgery from a board-certified or board-
23 eligible plastic surgeon who provides breast reconstructive services,
24 regardless of whether the plastic surgeon is affiliated with the general
25 hospital or a health care provider network; and (3) the availability of
26 coverage under a health benefits plan for reconstructive surgery
27 pursuant to section 1 of P.L.1983, c.50 (C.17:48-6b), section 1 of
28 P.L.1983, c.51 (C.17:48A-7b), section 35 of P.L.1985, c.236
29 (C.17:48E-35), section 1 of P.L.1983, c.53 (C.17B:26-2.1a), section
30 1 of P.L.1983, c.52 (C.17B:27-46.1a), section 6 of P.L.1997, c.75
31 (C.26:2J-4.14), and federal law. The written notice shall be provided
32 to the patient upon the general hospital's notification of the patient's
33 breast cancer diagnosis and in advance of obtaining consent to the
34 surgical procedure.

35

36 2. a. A contract between a carrier and a health care provider for
37 network participation shall not contain any provision that:

38 (1) prohibits a health care provider from making
39 recommendations to a covered person to a board-certified or board-
40 eligible plastic surgeon, regardless of network affiliation, who
41 provides the full scope of breast reconstructive services necessary
42 and appropriate to the patient's treatment, provided that the primary
43 consideration when making such recommendations shall be the
44 patient's clinical needs, as determined by the patient's treating
45 physician. Other considerations may include the plastic surgeon's
46 training, expertise, availability, and accessibility to the patient; or

47 (2) seeks to limit the ability of a health care provider to make
48 recommendations as described in paragraph (1) of this subsection.

1 breast reconstructive services necessary and appropriate to the
2 patient's treatment needs, as determined by the patient's treating
3 physician based on the plastic surgeon's training, experience, and
4 location in relation to the patient's primary residence, provided that
5 the primary consideration in making such recommendations and
6 referrals is the patient's treatment needs. Carriers will not be
7 permitted to deny authorization for reconstructive surgery and related
8 services based on the plastic surgeon's network status or hospital
9 affiliation. The provision applies to reconstructive breast surgery or
10 surgery to restore and achieve symmetry between two breasts
11 following treatment or surgery for breast cancer, the breast cancer
12 gene, or other breast abnormality, including, but not limited to,
13 mastectomy surgery, lumpectomy, or radiation. For purposes of the
14 bill, the term "carrier" means a carrier as used in the "Health Care
15 Quality Act," P.L.1997, c.192 (C.26:2S-1 et seq.), as well as the State
16 Health Benefits Program and the School Employees' Health Benefits
17 Program.