

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1058

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8-7.2, AS AMENDED BY P.L.56-2023, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7.2. (a) As used in this section, "breast cancer diagnostic service" means a procedure intended to aid in the diagnosis of breast cancer. The term includes procedures performed on an inpatient basis and procedures performed on an outpatient basis, including the following:

- (1) Breast cancer screening mammography.
- (2) Surgical breast biopsy.
- (3) Pathologic examination and interpretation.

(b) As used in this section, "breast cancer outpatient treatment services" means procedures that are intended to treat cancer of the human breast and that are delivered on an outpatient basis. The term includes the following:

- (1) Chemotherapy.
- (2) Hormonal therapy.
- (3) Radiation therapy.
- (4) Surgery.
- (5) Other outpatient cancer treatment services prescribed by a physician.
- (6) Medical follow-up services related to the procedures set forth in subdivisions (1) through (5).

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(c) As used in this section, "breast cancer rehabilitative services" means procedures that are intended to improve the results of or to ameliorate the debilitating consequences of the treatment of breast cancer and that are delivered on an inpatient or outpatient basis. The term includes the following:

- (1) Physical therapy.
- (2) Psychological and social support services.
- (3) Reconstructive plastic surgery, **including chest wall reconstruction and aesthetic flat closure (as defined by the National Cancer Institute).**

(d) As used in this section, "breast cancer screening mammography" means a standard, two (2) view per breast, low-dose radiographic examination of the breasts that is:

- (1) furnished to an asymptomatic woman; and
- (2) performed by a mammography services provider using equipment designed by the manufacturer for and dedicated specifically to mammography in order to detect unsuspected breast cancer.

The term includes the interpretation of the results of a breast cancer screening mammography by a physician.

(e) As used in this section, "covered individual" means a female individual who is:

- (1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
- (2) entitled to services under a contract with a health maintenance organization (as defined in IC 27-13-1-19) that is entered into or renewed under section 7(c) of this chapter.

(f) As used in this section, "mammography services provider" means an individual or facility that:

- (1) has been accredited by the American College of Radiology;
- (2) meets equivalent guidelines established by the Indiana department of health; or
- (3) is certified by the federal Department of Health and Human Services for participation in the Medicare program (42 U.S.C. 1395 et seq.).

(g) As used in this section, "woman at risk" means a woman who meets at least one (1) of the following descriptions:

- (1) A woman who has a personal history of breast cancer.
- (2) A woman who has a personal history of breast disease that was proven benign by biopsy.
- (3) A woman whose mother, sister, or daughter has had breast cancer.

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(4) A woman who is at least thirty (30) years of age and has not given birth.

(h) A self-insurance program established under section 7(b) of this chapter to provide health care coverage must provide covered individuals with coverage for breast cancer diagnostic services, breast cancer outpatient treatment services, and breast cancer rehabilitative services. The coverage must provide reimbursement for breast cancer screening mammography at a level at least as high as:

(1) the limitation on payment for screening mammography services established in 42 CFR 405.534(b)(3) according to the Medicare Economic Index at the time the breast cancer screening mammography is performed; or

(2) the rate negotiated by a contract provider according to the provisions of the insurance policy;

whichever is lower. The costs of the coverage required by this subsection may be paid by the state or by the employee or by a combination of the state and the employee.

(i) A contract with a health maintenance organization that is entered into or renewed under section 7(c) of this chapter must provide covered individuals with breast cancer diagnostic services, breast cancer outpatient treatment services, and breast cancer rehabilitative services.

(j) The coverage required by subsection (h) and services required by subsection (i) may not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to covered individuals than the dollar limits, deductibles, or coinsurance provisions applying to physical illness generally under the self-insurance program or contract with a health maintenance organization.

(k) The coverage for breast cancer diagnostic services required by subsection (h) and the breast cancer diagnostic services required by subsection (i) must include the following:

(1) In the case of a covered individual who is at least thirty-five (35) years of age but less than forty (40) years of age, at least one (1) baseline breast cancer screening mammography performed upon the individual before she becomes forty (40) years of age.

(2) In the case of a covered individual who is:

(A) less than forty (40) years of age; and

(B) a woman at risk;

at least one (1) breast cancer screening mammography performed upon the covered individual every year.

(3) In the case of a covered individual who is at least forty (40) years of age, at least one (1) breast cancer screening mammography performed upon the individual every year.

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(4) Any additional mammography views that are required for proper evaluation.

(5) Ultrasound services, if determined medically necessary by the physician treating the covered individual.

(l) The coverage for breast cancer diagnostic services required by subsection (h) and the breast cancer diagnostic services required by subsection (i) shall be provided in addition to any benefits specifically provided for x-rays, laboratory testing, or wellness examinations.

SECTION 2. IC 5-10-8-16.5, AS ADDED BY P.L.67-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 16.5. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.

(b) As used in this section, "mastectomy" means the removal of all or part of a breast for reasons that are determined by a licensed physician to be medically necessary.

(c) A state employee health plan that provides coverage for a mastectomy must provide coverage as required under 29 U.S.C. 1185b, including coverage for:

(1) prosthetic devices; and

(2) reconstructive surgery incident to a mastectomy including:

(A) all stages of reconstruction of the breast on which the mastectomy has been performed; ~~and~~

(B) surgery and reconstruction of the other breast to produce symmetry; ~~and~~

(C) chest wall reconstruction and aesthetic flat closure (as defined by the National Cancer Institute);

in the manner determined by the attending physician and the covered individual to be appropriate.

(d) In addition to the coverage required by 29 U.S.C. 1185b, a state employee health plan that provides coverage for a mastectomy must provide coverage for:

(1) custom fabricated breast prostheses; and

(2) one (1) additional breast prosthesis per breast affected by the mastectomy.

(e) Coverage required under this section is subject to:

(1) the deductible and coinsurance provisions applicable to a mastectomy; and

(2) all other terms and conditions applicable to other benefits.

(f) A state employee health plan must provide to a covered individual, when the individual's coverage under the state employee health plan begins and annually thereafter, written notice of the

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coverage required under this section. Notice that is sent by the state employee health plan that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

(g) The coverage required under this section applies to a state employee health plan that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the state employee health plan;

was covered under the state employee health plan at the time of the mastectomy.

(h) Except as provided in **subsection (c)(2)(C) and** subsection (d), this section does not require a state employee health plan to provide coverage related to postmastectomy care that exceeds the coverage required for postmastectomy care under federal law.

SECTION 3. IC 25-22.5-2-7, AS AMENDED BY P.L.56-2023, SECTION 233, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The board shall do the following:

- (1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:
 - (A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.
 - (B) The examination for licensure.
 - (C) The license or permit.
 - (D) Fees for examination, permit, licensure, and registration.
 - (E) Reinstatement of licenses and permits.
 - (F) Payment of costs in disciplinary proceedings conducted by the board.
- (2) Administer oaths in matters relating to the discharge of the board's official duties.
- (3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.
- (4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.
- (5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.
- (6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.
- (7) Issue an unlimited license, a limited license, or a temporary

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medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.

(11) Adopt rules or protocol establishing the following:

(A) An education program to be used to educate women ~~with high~~ **concerning breast density, including breast density classifications set forth in IC 25-22.5-13.2-1.**

(B) Standards for providing an annual screening or diagnostic test for a woman who is at least forty (40) years of age ~~and who has been determined to have high breast density; whose breast and connective tissue in comparison to fat in the breast is determined to be dense.~~

~~As used in this subdivision, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.~~

(12) Adopt rules establishing standards and protocols for the prescribing of controlled substances.

(13) Adopt rules as set forth in IC 25-23.4 concerning the certification of certified direct entry midwives.

(14) In consultation with the Indiana department of health and the office of the secretary of family and social services, adopt rules under IC 4-22-2 or protocols concerning the following for providers that are providing office based opioid treatment:

(A) Requirements of a treatment agreement (as described in IC 12-23-20-2) concerning the proper referral and treatment of mental health and substance use.

(B) Parameters around the frequency and types of visits required for the periodic scheduled visits required by IC 12-23-20-2.

(C) Conditions on when the following should be ordered or performed:

(i) A urine toxicology screening.

(ii) HIV, hepatitis B, and hepatitis C testing.

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- (D) Required documentation in a patient's medical record when buprenorphine is prescribed over a specified dosage.
- (15) Adopt rules as set forth in IC 25-14.5 concerning the certification of certified dietitians.
- (16) Adopt rules and establish fees as set forth in IC 25-8.5-2-6 concerning the licensure of behavior analysts.
- (17) Administer the interstate medical licensure compact under IC 25-22.5-16, including appointing members to the interstate medical licensure compact commission and adopting any rules necessary to administer the compact.
- (b) The board may adopt rules that establish:
- (1) certification requirements for child death pathologists;
 - (2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and
 - (3) a process to certify a qualified child death pathologist.
- (c) The board may adopt rules under IC 4-22-2 establishing guidelines for the practice of telehealth in Indiana. Adoption of rules under this subsection may not delay the implementation and provision of telehealth services by a provider under IC 25-1-9.5.

SECTION 4. IC 25-22.5-13.2-1, AS AMENDED BY P.L.168-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. **(a)** A facility that performs a mammography examination shall if the patient is determined by the facility to have an amount of breast and connective tissue in comparison to fat in the breast, do the following:

- (1) Include an assessment of the patient's breast density as one of the following classifications:**
 - (A) The breasts are almost entirely fatty.**
 - (B) There are scattered areas of fibroglandular density.**
 - (C) The breasts are heterogeneously dense, which may obscure small masses.**
 - (D) The breasts are extremely dense, which lowers the sensitivity of mammography.**
- (2) Notify the patient and the patient's referring provider in writing of the determination concerning the patient's breast density in the classifications described in subdivision (1).**
- (3) Provide the following written notice to the patient when providing the determination concerning the patient's mammography examination:**
 - (A) If the patient's breast and connective tissue in comparison to fat in the breast is determined to not be dense, the notice from the facility must state the following:**

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"Breast tissue can either be dense or not dense. Dense tissue makes it harder to find breast cancer on a mammogram and also raises the risk of developing breast cancer. Your breast tissue is not dense. Talk to your health care provider about breast density, risks for breast cancer, and your individual situation."

(B) If the patient's breast and connective tissue in comparison to fat in the breast is determined to be dense, the notice from the facility must state the following:

"Breast tissue can be dense or not dense. Dense tissue makes it harder to find breast cancer on a mammogram and also raises the risk of developing breast cancer. Your breast tissue is dense. In some people with dense tissue, other imaging tests in addition to a mammogram may help find cancers. Talk to your health care provider about breast density, risks for breast cancer, and your individual situation."

(b) The notice required under this section must be included with a summary of the written mammography report.

SECTION 5. IC 27-8-5-26, AS AMENDED BY P.L.67-2020, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 26. (a) As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

(b) A policy of accident and sickness insurance that provides coverage for a mastectomy may not be issued, amended, delivered, or renewed in Indiana unless the policy provides coverage as required under 29 U.S.C. 1185b, including coverage for:

- (1) prosthetic devices; and
- (2) reconstructive surgery incident to a mastectomy including:
 - (A) all stages of reconstruction of the breast on which the mastectomy has been performed; ~~and~~
 - (B) surgery and reconstruction of the other breast to produce symmetry; ~~and~~
 - (C) chest wall reconstruction, including aesthetic flat closure (as defined by the National Cancer Institute);**
 in the manner determined by the attending physician and the patient to be appropriate.

(c) In addition to the coverage required by 29 U.S.C. 1185b, a policy of accident and sickness insurance that provides coverage for a mastectomy must provide coverage for:

- (1) custom fabricated breast prostheses; and

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(2) one (1) additional breast prosthesis per breast affected by the mastectomy.

(d) Coverage required under this section is subject to:

(1) the deductible and coinsurance provisions applicable to a mastectomy; and

(2) all other terms and conditions applicable to other benefits.

(e) An insurer that issues a policy of accident and sickness insurance shall provide to an insured, at the time the policy is issued and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the insurer that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

(f) The coverage required under this section applies to a policy of accident and sickness insurance that provides coverage for a mastectomy, regardless of whether an individual who:

(1) underwent a mastectomy; and

(2) is covered under the policy;

was covered under the policy at the time of the mastectomy.

(g) Except as provided in **subsection (b)(2)(C) and** subsection (c), this section does not require an insurer to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 6. IC 27-13-7-14, AS AMENDED BY P.L.67-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 14. (a) As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

(b) A contract with a health maintenance organization that provides coverage for a mastectomy must provide coverage as required under 29 U.S.C. 1185b, including coverage for:

(1) prosthetic devices; and

(2) reconstructive surgery incident to a mastectomy including:

(A) all stages of reconstruction of the breast on which the mastectomy has been performed; **and**

(B) surgery and reconstruction of the other breast to produce symmetry; **and**

(C) chest wall reconstruction, including aesthetic flat closure (as defined by the National Cancer Institute);

in the manner determined by the attending physician and the patient to be appropriate.

(c) In addition to the coverage required by 29 U.S.C. 1185b, a health maintenance organization contract that provides coverage for a

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mastectomy must provide coverage for:

- (1) custom fabricated breast prostheses; and
- (2) one (1) additional breast prosthesis per breast affected by the mastectomy.

(d) Coverage required under this section is subject to:

- (1) the deductible and coinsurance provisions applicable to a mastectomy; and
- (2) all other terms and conditions applicable to other services under the contract.

(e) A health maintenance organization shall provide to an enrollee, at the time that an individual contract or a group contract is entered into and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the health maintenance organization that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

(f) The coverage required under this section applies to a contract with a health maintenance organization that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the contract;

was covered under the contract at the time of the mastectomy.

(g) Except as provided in **subsection (b)(2)(C) and** subsection (c), this section does not require a health maintenance organization to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 7. [EFFECTIVE JULY 1, 2024] (a) The medical licensing board of Indiana created by IC 25-22.5-2-1 shall amend 844 IAC 16 as follows:

- (1) Remove references to the term "high breast density".**
- (2) Align the language in 844 IAC 16 with the breast density classifications set forth in IC 25-22.5-13.2-1, as amended by this act. Alignment under this subdivision includes amending the language concerning:**
 - (A) the education program; and**
 - (B) screening and testing protocols.**

(b) This SECTION expires December 31, 2026.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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