

**SENATE . . . . . No. 00467**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Karen E. Spilka*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to women’s health and cancer recovery..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>

# SENATE . . . . . No. 00467

By Ms. Spilka, petition (accompanied by bill, Senate, No. 467) of Swan, Andrews, Eldridge and other members of the General Court for legislation relative to women’s health and cancer recovery [Joint Committee on Financial Services].

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
□ SENATE  
□ , NO. 896 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to women’s health and cancer recovery..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Notwithstanding any general or special law to the contrary:  
2 (a) Any insurer proposing to issue individual or group accident and sickness insurance  
3 policies providing hospital, medical and surgical, or major medical coverage on an expense-  
4 incurred basis; any corporation providing individual or group accident and sickness insurance  
5 policies providing hospital, medical and surgical, or major medical coverage on an expense-  
6 incurred basis; any health maintenance organization contract providing a health care plan for  
7 health care services; and any group blanket policy of accident and sickness insurance, including  
8 the contributory group insurance for persons in the active or retired service of the  
9 Commonwealth, that covers medical and surgical benefits, shall provide coverage consistent

10 with all of the provisions of this section, known as the “Women’s Health and Cancer Recovery  
11 Act.”

12 (b) Coverage under this section shall include benefits that provide a minimum hospital  
13 stay for such period as is determined by the attending physician in consultation with the patient  
14 to be medically appropriate for such covered person undergoing a lymph node dissection or a  
15 lumpectomy or a mastectomy for the treatment of breast cancer. Such coverage may be subject  
16 to annual deductibles and coinsurance as may be deemed appropriate by the Division of  
17 Insurance, herein referred to as “the division”, and as are consistent with those established for  
18 other benefits within a given policy.

19 (c) Every policy which provides hospital, medical, major medical, or similar  
20 comprehensive-type coverage must provide coverage for a second medical opinion by an  
21 appropriate specialist, including but not limited to a specialist affiliated with a specialty care  
22 center for the treatment of cancer, in the event of a positive or negative diagnosis of cancer or a  
23 recurrence of cancer or a recommendation of a course of treatment for cancer, subject to the  
24 following:

25 (1) In the case of a policy that requires, or provides financial incentives for, the insured to  
26 receive covered services from health

27 care providers participating in a provider network maintained by or under contract with the  
28 insurer, the policy shall include

29 coverage for a second medical opinion from a non-participating specialist, including but  
30 not limited to a specialist affiliated with

31 a specialty care center for the treatment of cancer, when the attending physician provides a  
32 written referral to a non-  
33 participating specialist, at no additional cost to the insured beyond what such insured  
34 would have paid for services from a  
35 participating appropriate specialist. Provided however, that nothing herein shall impair an  
36 insured's rights (if any) under the  
37 policy to obtain the second medical opinion from a non-participating specialist without a  
38 written referral, subject to the  
39 payment of additional coinsurance (if any) required by the policy for services provided by  
40 non-participating providers. The  
41 insurer shall compensate the non-participating specialist at the usual, customary and  
42 reasonable rate, or at a rate listed on  
43 a fee schedule filed and approved by the division, which provides a comparable level of  
44 reimbursement.

45 (2) In the case of a policy that does not provide financial incentives for, and does not require,  
46 the insured to receive covered  
47 services from health care providers participating in a provider network maintained by or  
48 under contract with the insurer, the  
49 policy shall include coverage for a second medical opinion from a specialist at no  
50 additional cost to the insured beyond what

51 the insured would have paid for comparable services covered under the policy.

52 (3) Such coverage may be subject to annual deductibles and coinsurance as may be deemed  
53 appropriate by the division and as

54 are consistent with those established for other benefits within a given policy, and, where  
55 applicable, consistent with the

56 provisions of paragraphs (1) and (2) of this subsection.

57 Nothing in subsection (c) shall be construed as requiring the provision of secondary  
58 consultations where the patient

59 determines not to seek such a consultation.

60 (d) Every policy which provides hospital, medical, major medical, or similar  
61 comprehensive-type coverage shall provide the following coverage for breast reconstruction  
62 surgery after a mastectomy:

63 (1) All stages of reconstruction of the breast on which the mastectomy has been performed;

64 (2) Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

65 (3) Prostheses and physical complications of mastectomy, including lymphedemas.

66 Such coverage shall be provided in the manner determined by the attending physician and the  
67 patient to be medically appropriate. Such coverage may be subject to annual deductibles and  
68 coinsurance provisions as may be deemed appropriate by the division and as are consistent with  
69 those established for other benefits within a given policy.

70 (e) Every policy which provides hospital, medical, major medical, or similar  
71 comprehensive-type coverage shall provide coverage which includes benefits for equipment,  
72 supplies, complex decongestive therapy, and outpatient self-management training and education  
73 for the treatment of lymphedema, if prescribed by a health care professional legally authorized to  
74 prescribe or provide such items under law. Such coverage may be subject to annual deductibles  
75 and coinsurance provisions as may be deemed appropriate by the division and as are consistent  
76 with those established for other benefits within a given policy.

77 (f) Written notice of the availability of such coverage provided by this section shall be  
78 delivered to the policyholder or beneficiary of such policy, contract, arrangement or plan prior to  
79 inception or renewal of such policy and annually thereafter.

80 (g) An insurer providing coverage under this section and any participating entity  
81 through which the insurer offers health services shall not:

82 (1) Deny to a covered person eligibility, or continued eligibility, to enroll or to renew  
83 coverage under the terms of the policy or vary

84 the terms of the policy for the purpose or with the effect of avoiding compliance with this  
85 section;

86 (2) Provide incentives (monetary or otherwise) to encourage a covered person to accept less  
87 than the minimum protections

88 available under this section;

89 (3) Penalize in any way or reduce or limit the compensation of a health care practitioner for  
90 recommending or providing care to a

91 covered person in accordance with this section;

92 (4) Provide incentives (monetary or otherwise) to a health care practitioner relating to the  
93 services provided pursuant to this

94 section intended to induce or have the effect of inducing such practitioner to provide care  
95 to a covered person in a manner

96 inconsistent with this section; or

97 (5) Restrict coverage for any portion of a period within a hospital length of stay required  
98 under this section in a manner that is

99 inconsistent with the coverage provided for any preceding portion of such stay.

100 (h) This Act shall take effect on the first of January next succeeding the date on which  
101 it shall have become a law, and shall apply to all insurance policies, plans, arrangements, and  
102 contracts issued, renewed, extended, modified, altered or amended on or after such date.

103 (i) This section shall not apply to, nor include, the following, or any combination  
104 thereof:

105 (1) Coverage for accidental death or dismemberment;

106 (2) Coverage for short-term travel;

107 (3) Coverage providing wages or payments in lieu of wages for any period during which the  
108 employee is absent from work on

109 account of sickness or injury;

110 (4) A Medicare supplemental policy, as defined in Section 1852(g)(1) of the Social Security  
111 Act, or any other similar coverage under

112 state or federal government plans;

113 (5) Coverage issued as a supplement to liability insurance;

114 (6) Worker's compensation or similar insurance;

115 (7) Automobile medical-payment insurance; and

116 (8) A long-term policy, including a nursing home fixed indemnity policy, unless the division  
117 determines that such a policy provides

118 sufficiently comprehensive coverage of a benefit so that it should be treated as a health  
119 insurance plan under Section (a) of

120 this Act.