SENATE DOCKET, NO. 576 FILED ON: 1/17/2023

# SENATE . . . . . No. 711

## The Commonwealth of Massachusetts

PRESENTED BY:

***Michael F. Rush***

*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 adoption of the accompanying bill:

An Act relative to breast cancer equity and early detection.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|---|---|---|
| *Michael F. Rush* | *Norfolk and Suffolk* | |
| *Paul McMurtry* | *11th Norfolk* | *2/2/2023* |
| *Jacob R. Oliveira* | *Hampden, Hampshire and Worcester* | *2/6/2023* |
| *Jason M. Lewis* | *Fifth Middlesex* | *2/7/2023* |
| *Hannah Kane* | *11th Worcester* | *2/9/2023* |
| *Sal N. DiDomenico* | *Middlesex and Suffolk* | *5/22/2023* |
| *John F. Keenan* | *Norfolk and Plymouth* | *7/17/2023* |
| *Bruce E. Tarr* | *First Essex and Middlesex* | *7/24/2023* |
| *Robyn K. Kennedy* | *First Worcester* | *8/14/2023* |
| *John Barrett, III* | *1st Berkshire* | *10/5/2023* |
| *Paul W. Mark* | *Berkshire, Hampden, Franklin and Hampshire* | *10/5/2023* |
| *Susan L. Moran* | *Plymouth and Barnstable* | *10/5/2023* |
| *Lydia Edwards* | *Third Suffolk* | *10/5/2023* |
| *Michael D. Brady* | *Second Plymouth and Norfolk* | *10/11/2023* |
| *Adam Gomez* | *Hampden* | *10/18/2023* |
| *Nick Collins* | *First Suffolk* | *1/22/2024* |

SENATE DOCKET, NO. 576 FILED ON: 1/17/2023

# SENATE . . . . . No. 711

By Mr. Rush, a petition (accompanied by bill, Senate, No. 711) of Michael F. Rush, Paul McMurtry, Jacob R. Oliveira, Jason M. Lewis and others for legislation relative to breast cancer equity and early detection. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *726* OF 2021-2022.]

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court**
**(2023-2024)**

An Act relative to breast cancer equity and early detection.

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

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 30 thereof the following section: -

Section 31. Notwithstanding any general or special law or rule or regulation to the contrary, any coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission that provides medical expense coverage for screening mammograms shall provide coverage for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of

this section, “diagnostic examinations for breast cancer” means a medically necessary and appropriate examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts law to the extent the exemption is necessary to allow the policy to be an “HSA-qualified health insurance policy.”

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after section 10M thereof the following new section: -

Section 10N. Notwithstanding any general or special law or rule or regulation to the contrary, the Executive Office of Health and Human Services shall provide coverage under its Medicaid contracted health insurers, health plans, health maintenance organizations, and third party administrators under contract to a Medicaid managed care organization, the Medicaid primary care clinician plan, or an accountable care organization for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of this section, “diagnostic examinations for breast cancer” means a medically necessary and appropriate examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible

health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts law to the extent the exemption is necessary to allow the policy to be an “HSA-qualified health insurance policy.”

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after section 47LL thereof the following section: -

Section 47MM. Notwithstanding any general or special law or rule or regulation to the contrary, any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides medical expense coverage for screening mammograms shall provide coverage for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of this section, “diagnostic examinations for breast cancer” means a medically necessary and appropriate

examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts law to the extent the exemption is necessary to allow the policy to be an “HSA-qualified health insurance policy.”

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 4. Chapter 176A of the General Laws is hereby amended by inserting after section 8NN thereof the following section: -

Section 8OO. Notwithstanding any general or special law or rule or regulation to the contrary, any contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed within the commonwealth that provides coverage for screening mammograms shall provide coverage for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of this section, “diagnostic examinations for breast cancer” means a medically necessary and appropriate examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts law to the extent the exemption is necessary to allow the policy to be an "HSA-qualified health insurance policy."

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 5. Chapter 176B of the General Laws is hereby amended by inserting after section 4NN thereof the following section: -

Section 4OO. Notwithstanding any general or special law or rule or regulation to the contrary, any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth that provides coverage for screening mammograms shall provide coverage for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of this section, "diagnostic examinations for breast cancer" means a medically necessary and appropriate examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or

suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts law to the extent the exemption is necessary to allow the policy to be an “HSA-qualified health insurance policy.”

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 6. Chapter 176G of the General Laws is hereby amended by inserting after section 4FF thereof the following section: -

Section 4GG. Notwithstanding any general or special law or rule or regulation to the contrary, any individual or group health maintenance contract that provides coverage for screening mammograms shall provide coverage for diagnostic examinations for breast cancer and for digital breast tomosynthesis screening on a basis not less favorable than screening mammograms that are covered as medical benefits. An increase in patient cost sharing for screening mammograms, for digital breast tomosynthesis or for diagnostic examinations for breast cancer shall not be allowed to achieve compliance with this section. For the purposes of this section, “diagnostic examinations for breast cancer” means a medically necessary and appropriate examination for breast cancer to evaluate the abnormality in the breast that is seen or suspected from a screening examination for breast cancer, detected by another means of examination; or suspected based on the medical history or family medical history of the individual. “Examination for breast cancer” includes an examination used to evaluate an abnormality in a breast using diagnostic mammography, digital breast tomosynthesis, breast magnetic resonance imaging or breast ultrasound. “Cost sharing” shall mean a deductible, coinsurance, copayment, and any maximum limitation on the application of such a deductible, coinsurance, copayment, or similar out-of-pocket expense.

(a) As used in this Section, "HSA-qualified health insurance policy" means a policy of individual or group health insurance coverage that satisfies the criteria for a "high-deductible health plan" under 26 U.S.C. 223 as implemented and interpreted by the U.S. Department of the Treasury in the regulations and guidance in effect at the time the policy is issued.

(b) Except as provided in (c), an HSA-qualified health insurance policy is exempt from any prohibition on cost-sharing requirements for a covered benefit required under Massachusetts

law to the extent the exemption is necessary to allow the policy to be an “HSA-qualified health insurance policy.”

(c) The exemption provided in (b) shall not apply to any coverage required by Massachusetts statute that pertains to preventive care as that term is defined by regulation or guidance by the U.S. Department of the Treasury under 26 U.S.C. 223 with respect to any HSA-qualified health insurance policy issued, delivered, amended, or renewed while such regulation or guidance is effective.

SECTION 7. The provisions of this Act shall be effective for all contracts which are entered into, renewed, or amended on or after January 1, 2025.