

SENATE No. 499

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 advancing contraceptive coverage and economic security in our state (ACCESS).

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>2/22/2017</i>
<i>Robert M. Koczera</i>	<i>11th Bristol</i>	<i>1/24/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/24/2017</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/24/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/25/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>1/25/2017</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/25/2017</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>	<i>1/25/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/25/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/25/2017</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>1/25/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/25/2017</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>1/25/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>3/9/2017</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/26/2017</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/26/2017</i>

<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>2/2/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/26/2017</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/26/2017</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/27/2017</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>	<i>1/27/2017</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/27/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/27/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/27/2017</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/27/2017</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/30/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>1/30/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>1/30/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>1/30/2017</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/31/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>	<i>1/31/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2017</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>2/1/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/1/2017</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>2/1/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>2/1/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/1/2017</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>2/1/2017</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	<i>2/1/2017</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/1/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/2/2017</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>	<i>2/2/2017</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>2/2/2017</i>
<i>Bud Williams</i>	<i>11th Hampden</i>	<i>2/2/2017</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/2/2017</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>2/2/2017</i>
<i>Juana Matias</i>	<i>16th Essex</i>	<i>2/2/2017</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and</i>	<i>2/2/2017</i>

	<i>Hampden</i>	
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	<i>2/3/2017</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>2/3/2017</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>	<i>2/3/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/3/2017</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>2/3/2017</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>2/3/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/3/2017</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/3/2017</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>2/3/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/3/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/3/2017</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>	<i>2/3/2017</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>2/3/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/6/2017</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>	<i>3/10/2017</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>5/11/2017</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>6/20/2017</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>8/14/2017</i>

SENATE No. 499

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 499) of Harriette L. Chandler, Robert M. Koczera, Jennifer E. Benson, Sarah K. Peake and other members of the General Court for legislation relative to women’s health and economic equity. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 483 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act advancing contraceptive coverage and economic security in our state (ACCESS).

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. Chapter 32A of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by inserting after section 27 the following section:

3 Section 28. (a) Any coverage offered by the commission to any active or retired
4 employee of the commonwealth insured under the group insurance commission shall provide
5 coverage for:

6 (1) all Food and Drug Administration (“FDA”)-approved contraceptive drugs, devices
7 and other products. This includes all FDA-approved contraceptive drugs, devices, and products,
8 as prescribed by the enrollee’s provider or otherwise authorized under state or federal law. The
9 following apply:

10 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
11 product, the Commission shall provide coverage for either the original FDA-approved
12 contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

13 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
14 by the covered person's provider, the Commission shall defer to the determination and judgment
15 of the attending provider and provide coverage for an alternate prescribed contraceptive drug,
16 device, or product;

17 (2) all FDA-approved contraceptive drugs available over the counter without a
18 prescription;

19 (3) a single dispensing to an enrollee of a supply of prescription contraceptives for a 12-
20 month period;

21 (4) voluntary sterilization procedures;

22 (5) patient education and counseling on contraception; and

23 (6) follow-up services related to the drugs, devices, products and procedures covered
24 under this subsection, including, but not limited to, management of side effects, counseling for
25 continued adherence, and device insertion and removal.

26 (b) (1) Coverage provided under this subsection shall not be subject to any deductible,
27 coinsurance, copayment or any other cost-sharing requirement. Any coverage offered by the
28 commission shall not impose any restrictions or delays in the coverage, including medical
29 management techniques such as denials, step therapy, or prior authorization.

30 (2) Benefits for an enrollee under this section shall also be provided for such enrollee's
31 covered spouse and covered dependents.

32 (3) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
33 devices, products and procedures as prescribed by a provider, acting within the his/her scope of
34 practice, for reasons other than contraceptive purposes, such as for decreasing the risk of ovarian
35 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
36 the life or health of such enrollee, or such enrollee's covered spouse, and/or covered dependents.

37 (4) Nothing in this section shall be construed to deny or restrict in any way the group
38 insurance commission's authority to ensure plan compliance with this chapter.

39 (5) Nothing in this section shall be construed to require the commission to cover
40 experimental or investigational treatments.

41 (c) For purposes of this section, the following definitions shall apply, unless the context
42 clearly requires otherwise:

43 "Provider", an individual or facility licensed, certified, or otherwise authorized or
44 permitted by law to administer health care in the ordinary course of business or professional
45 practice.

46 Contraceptive drugs, devices, or products classified as "therapeutic equivalents" means
47 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
48 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
49 and route of administration, and (b) meet compendial or other applicable standards of strength,
50 quality, purity, and identity; provided further that to be considered a "therapeutic equivalent", the

51 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
52 code by the FDA.

53 SECTION 2. Chapter 118E of the General Laws, as so appearing, is hereby amended by
54 inserting after section 10I the following section:

55 10J (a) The division and its contracted health insurers, health plans, health maintenance
56 organizations, behavioral health management firms and third-party administrators under contract
57 to a Medicaid managed care organization or primary care clinician plan shall provide coverage
58 for:

59 (1) all FDA-approved contraceptive drugs, devices and other products. This includes all
60 FDA-approved contraceptive drugs, devices, and products, as prescribed by an enrollee's
61 provider or otherwise authorized under state or federal law. The following apply:

62 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
63 product, the division shall provide coverage for either the original FDA-approved contraceptive
64 drug, device, or product or at least one of its therapeutic equivalents; and

65 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
66 by the covered person's provider, the division shall defer to the determination and judgment of
67 the attending provider and provide coverage for an alternate prescribed contraceptive drug,
68 device, or product;

69 (2) all FDA-approved contraceptive drugs available over the counter without a
70 prescription;

71 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
72 12-month period;

73 (4) voluntary sterilization procedures;

74 (5) patient education and counseling on contraception; and

75 (6) follow-up services related to the drugs, devices, products and procedures covered
76 under this subsection, including, but not limited to, management of side effects, counseling for
77 continued adherence, and device insertion and removal.

78 (b) (1) The division shall not impose a deductible, coinsurance, copayment or any other
79 cost-sharing requirement on the coverage provided pursuant to this subsection. Cost sharing shall
80 not be imposed on any person with coverage under this chapter.

81 The division shall not impose any restrictions or delays on the coverage required under
82 this section, including medical management techniques such as denials, step therapy, or prior
83 authorization.

84 (2) Benefits for an enrollee under this section shall be the same for such enrollee's
85 covered spouse and covered dependents.

86 (3) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
87 devices, products and procedures as prescribed by a provider, acting within his/her scope of
88 practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian
89 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
90 the life or health of such enrollee, or such enrollee's covered spouse and/or covered dependents.

91 (4) Nothing in this section shall be construed to deny or restrict in any way the division of
92 medical assistance’s authority to ensure its contracted health insurers, health plans, health
93 maintenance organizations, behavioral health management firms and third-party administrators
94 under contract to a Medicaid managed care organization or primary care clinician plan are in
95 compliance with this chapter.

96 (5) Nothing in this section shall be construed to require the division to cover experimental
97 or investigational treatments.

98 (c) For purposes of this section, the following definitions shall apply, unless the context
99 clearly requires otherwise:

100 “Provider”, an individual or facility licensed, certified, or otherwise authorized or
101 permitted by law to administer health care in the ordinary course of business or professional
102 practice.

103 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
104 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
105 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
106 and route of administration, and (b) meet compendial or other applicable standards of strength,
107 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the
108 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
109 code by the FDA.

110 SECTION 3. Chapter 175 of the General Laws, as so appearing, is hereby amended by
111 inserting after section 47W(c) the following:

112 (d) An individual policy of accident and sickness insurance issued pursuant to section
113 108 that provides hospital expense and surgical expense and any group blanket policy of accident
114 and sickness insurance issued pursuant to section 110 that provides hospital expense and surgical
115 expense insurance, delivered, issued or renewed by agreement between the insurer and the
116 policyholder, within or without the Commonwealth, (hereinafter “policy”) shall provide benefits
117 for residents of the Commonwealth and all group members having a principal place of
118 employment within the Commonwealth coverage for all of the following services and
119 contraceptive methods:

120 (1) all FDA-approved contraceptive drugs, devices and other products. This includes all
121 FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee’s
122 provider or otherwise authorized under state or federal law. The following apply:

123 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
124 product, a policy shall provide coverage for either the original FDA-approved contraceptive
125 drug, device, or product or at least one of its therapeutic equivalents; and

126 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
127 by the covered person’s provider, a policy shall defer to the determination and judgment of the
128 attending provider and provide coverage for an alternate prescribed contraceptive drug, device,
129 or product;

130 (2) all FDA-approved contraceptive drugs available over the counter without a
131 prescription;

132 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
133 12-month period;

134 (4) voluntary sterilization procedures;
135 (5) patient education and counseling on contraception; and
136 (6) follow-up services related to the drugs, devices, products and procedures covered
137 under this section, including, but not limited to, management of side effects, counseling for
138 continued adherence, and device insertion and removal.

139 (e) (1) A policy subject to this section shall not impose a deductible, coinsurance,
140 copayment or any other cost-sharing requirement on the coverage provided pursuant to this
141 section. Except as otherwise authorized under this section, a policy shall not impose any
142 restrictions or delays on the coverage required under this section, including medical management
143 techniques such as denials, step therapy, or prior authorization.

144 (2) Benefits for an enrollee shall be the same for such enrollee's covered spouse and
145 covered dependents.

146 (f)(1) This section shall not apply to a policy if such policy is purchased by an employer
147 that is a church or qualified church-controlled organization.

148 (2) A church or qualified church-controlled organization that invokes the exemption
149 provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to
150 enrollment with the plan, listing the contraceptive health care methods and services such
151 employer refuses to cover for religious reasons.

152 (g) Nothing in this section shall be construed to exclude coverage for contraceptive drugs,
153 devices, products and procedures as prescribed by a provider, acting within his/her scope of
154 practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian

155 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
156 the life or health of an enrollee.

157 (h) Nothing in this section shall be construed to deny or restrict in any way the division of
158 insurance's authority to ensure compliance with this chapter.

159 (i) Nothing in this section shall be construed to require an individual or group policy of
160 accident or sickness to cover experimental or investigational treatments.

161 (j) For purposes of this section, the following definitions shall apply, unless the context
162 clearly requires otherwise:

163 "Church", a church, a convention or association of churches, or an elementary or
164 secondary school which is controlled, operated, or principally supported by a church or by a
165 convention or association of churches.

166 "Provider", an individual or facility licensed, certified, or otherwise authorized or
167 permitted by law to administer health care in the ordinary course of business or professional
168 practice.

169 "Qualified church-controlled organization", described in section 501(c)(3) of the Internal
170 Revenue Code, other than an organization which--

171 (i) offers goods, services, or facilities for sale, other than on an incidental basis, to the
172 general public, other than goods, services, or facilities which are sold at a nominal charge which
173 is substantially less than the cost of providing such goods, services, or facilities; and

174 (ii) normally receives more than 25 percent of its support from either (I) governmental
175 sources, or (II) receipts from admissions, sales of merchandise, performance of services, or
176 furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

177 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
178 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
179 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
180 and route of administration, and (b) meet compendial or other applicable standards of strength,
181 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the
182 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
183 code by the FDA.

184 SECTION 4. Chapter 176A of the General Laws, as so appearing, is hereby amended by
185 inserting after section 8W(c) the following:

186 (d) Any contract between a subscriber and the corporation under an individual or group
187 hospital service plan that is delivered, issued or renewed within or without the Commonwealth
188 and that provides benefits for outpatient services shall provide to all individual subscribers and
189 members within the Commonwealth and to all group members having a principal place of
190 employment within the Commonwealth coverage for all of the following services and
191 contraceptive methods:

192 (1) all FDA-approved contraceptive drugs, devices and other products. This includes all
193 FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee’s
194 provider or otherwise authorized under state or federal law. The following apply:

195 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
196 product, an individual or group hospital service plan shall provide coverage for either the
197 original FDA-approved contraceptive drug, device, or product or at least one of its therapeutic
198 equivalents; and

199 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
200 by the covered person's provider, an individual or group hospital service plan shall defer to the
201 determination and judgment of the attending provider and provide coverage for an alternate
202 prescribed contraceptive drug, device, or product;

203 (2) all FDA-approved contraceptive drugs available over the counter without a
204 prescription;

205 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
206 12-month period;

207 (4) voluntary sterilization procedures;

208 (5) patient education and counseling on contraception; and

209 (6) follow-up services related to the drugs, devices, products and procedures covered
210 under this subsection, including, but not limited to, management of side effects, counseling for
211 continued adherence, and device insertion and removal.

212 (e) (1) A contract subject to this section shall not impose a deductible, coinsurance,
213 copayment or any cost-sharing requirement on the coverage. Except as otherwise authorized
214 under this section, a contract shall not impose any restrictions or delays on the coverage required

215 under this section, including medical management techniques such as denials, step therapy, or
216 prior authorization.

217 (2) Benefits for an enrollee under this subsection shall be the same for an enrollee's
218 covered spouse and covered dependents.

219 (f) (1) The requirements of subsection (d) shall not apply to a contract between a
220 subscriber and a corporation under an individual or group hospital service plan that is delivered,
221 issued, or renewed within or without the Commonwealth that is purchased by an employer that is
222 a church or qualified church-controlled organization.

223 (2) A church or qualified church-controlled organization that invokes the exemption
224 provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to
225 enrollment with the plan, listing the contraceptive health care methods and services such
226 employer refuses to cover for religious reasons.

227 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
228 drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope
229 of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian
230 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
231 the life or health of an enrollee.

232 (h) Nothing in this subsection shall be construed to deny or restrict in any way the
233 division of insurance's authority to ensure contract compliance with this chapter.

234 (i) Nothing in this section shall be construed to require a contract to cover experimental
235 or investigational treatments.

236 (j) For purposes of this section, the following definitions shall apply, unless the context
237 clearly requires otherwise:

238 “Church”, a church, a convention or association of churches, or an elementary or
239 secondary school which is controlled, operated, or principally supported by a church or by a
240 convention or association of churches.

241 “Provider”, an individual or facility licensed, certified, or otherwise authorized or
242 permitted by law to administer health care in the ordinary course of business or professional
243 practice.

244 “Qualified church-controlled organization”, described in section 501(c)(3) of the Internal
245 Revenue Code, other than an organization which--

246 (i) offers goods, services, or facilities for sale, other than on an incidental basis, to the
247 general public, other than goods, services, or facilities which are sold at a nominal charge which
248 is substantially less than the cost of providing such goods, services, or facilities; and

249 (ii) normally receives more than 25 percent of its support from either (I) governmental
250 sources, or (II) receipts from admissions, sales of merchandise, performance of services, or
251 furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

252 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
253 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
254 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
255 and route of administration, and (b) meet compendial or other applicable standards of strength,
256 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the

257 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
258 code by the FDA.

259 SECTION 5. Chapter 176B of the General Laws, as so appearing, is hereby amended by
260 inserting after section 4W(c) the following:

261 (d) Any subscription certificate under an individual or group medical service agreement
262 that is delivered, issued or renewed within or without the Commonwealth and that provides
263 benefits for outpatient services shall provide to all individual subscribers and members within the
264 Commonwealth and to all group members having a principal place of employment within the
265 Commonwealth coverage for all of the following services and contraceptive methods:

266 (1) all FDA-approved contraceptive drugs, devices and other products. This includes all
267 FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's
268 provider or otherwise authorized under state or federal law. The following apply:

269 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
270 product, an individual or group medical service agreement shall provide for coverage for either
271 the original FDA-approved contraceptive drug, device, or product or at least one of its
272 therapeutic equivalents; and

273 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
274 by the covered person's provider, an individual or group medical service agreement shall defer to
275 the determination and judgment of the attending provider and provide coverage for an alternate
276 prescribed contraceptive drug, device, or product;

277 (2) all FDA-approved contraceptive drugs available over the counter without a
278 prescription;

279 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
280 12-month period;

281 (4) voluntary sterilization procedures;

282 (5) patient education and counseling on contraception; and

283 (6) follow-up services related to the drugs, devices, products and procedures covered
284 under this subsection, including, but not limited to, management of side effects, counseling for
285 continued adherence, and device insertion and removal.

286 (e) (1) A medical service agreement subject to this section shall not impose a deductible,
287 coinsurance, copayment or any other cost-sharing requirement on the coverage provided. Except
288 as otherwise authorized under this section, a medical service agreement shall not impose any
289 restrictions or delays on the coverage required under this section, including medical management
290 techniques such as denials, step therapy, or prior authorization.

291 (2) Benefits for an enrollee under this subsection shall be the same for such enrollee's
292 covered spouse and covered dependents.

293 (f) (1) The requirements of this subsection shall not apply to a medical service agreement
294 that is delivered, issued, or renewed within or without the Commonwealth that is purchased by
295 an employer that is a church or qualified church-controlled organization.

296 (2) A church or qualified church-controlled organization that invokes the exemption
297 provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to

298 enrollment with the plan, listing the contraceptive health care methods and services the employer
299 refuses to cover for religious reasons.

300 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
301 drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope
302 of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian
303 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
304 the life or health of an enrollee.

305 (h) Nothing in this subsection shall be construed to deny or restrict in any way the
306 division of insurance's authority to ensure medical service agreement compliance with this
307 chapter.

308 (i) Nothing in this subsection shall be construed to require an individual or group medical
309 service agreement to cover experimental or investigational treatments.

310 (j) For purposes of this section, the following definitions shall apply, unless the context
311 clearly requires otherwise:

312 "Church", a church, a convention or association of churches, or an elementary or
313 secondary school which is controlled, operated, or principally supported by a church or by a
314 convention or association of churches.

315 "Provider", an individual or facility licensed, certified, or otherwise authorized or
316 permitted by law to administer health care in the ordinary course of business or professional
317 practice.

318 “Qualified church-controlled organization”, described in section 501(c)(3) of the Internal
319 Revenue Code, other than an organization which--

320 (i) offers goods, services, or facilities for sale, other than on an incidental basis, to the
321 general public, other than goods, services, or facilities which are sold at a nominal charge which
322 is substantially less than the cost of providing such goods, services, or facilities; and

323 (ii) normally receives more than 25 percent of its support from either (I) governmental
324 sources, or (II) receipts from admissions, sales of merchandise, performance of services, or
325 furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

326 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
327 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
328 they (a) contain identical amounts of the same active drug ingredient in the same dosage form
329 and route of administration, and (b) meet compendial or other applicable standards of strength,
330 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the
331 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
332 code by the FDA.

333 SECTION 6. Chapter 176G of the General Laws, as so appearing, is hereby amended by
334 inserting after section 4O(c) the following:

335 (d) Any individual or group health maintenance contract that is issued, renewed or
336 delivered within or without the Commonwealth and that provides benefits for outpatient
337 prescription drugs or devices shall provide to residents of the Commonwealth and to persons
338 having a principal place of employment within the Commonwealth coverage for all of the
339 following services and contraceptive methods:

340 (1) all FDA-approved contraceptive drugs, devices and other products. This includes all
341 FDA-approved contraceptive drugs, devices, and products, as prescribed by the enrollee's
342 provider or otherwise authorized under state or federal law. The following apply:

343 (i) If there is a therapeutic equivalent of an FDA-approved contraceptive drug, device, or
344 product, a health maintenance contract shall provide coverage for either the original FDA-
345 approved contraceptive drug, device, or product or at least one of its therapeutic equivalents; and

346 (ii) If the covered contraceptive drug, device, or product is deemed medically inadvisable
347 by the covered person's provider, a health maintenance contract shall defer to the determination
348 and judgment of the attending provider and provide coverage for an alternate prescribed
349 contraceptive drug, device, or product;

350 (2) all FDA-approved contraceptive drugs available over the counter without a
351 prescription;

352 (3) a single dispensing to a beneficiary of a supply of prescription contraceptives for a
353 12-month period;

354 (4) voluntary sterilization procedures;

355 (5) patient education and counseling on contraception; and

356 (6) follow-up services related to the drugs, devices, products and procedures covered
357 under this section, including, but not limited to, management of side effects, counseling for
358 continued adherence, and device insertion and removal.

359 (e) (1) A health maintenance contract shall not impose a deductible, coinsurance,
360 copayment or any other cost-sharing requirement on the coverage provided. Cost sharing shall

361 not be imposed on any MassHealth beneficiary. Except as otherwise authorized under this
362 section, a health maintenance contract shall not impose any restrictions or delays on the coverage
363 required under this section, including medical management techniques such as denials, step
364 therapy, or prior authorization.

365 (2) Benefits for an enrollee under this section shall be the same for such enrollee's
366 covered spouse and covered dependents.

367 (f) (1) The requirements of this subsection shall not apply to a health maintenance
368 contract if that policy is purchased by an employer that is a church or qualified church-controlled
369 organization.

370 (2) A church or qualified church-controlled organization that invokes the exemption
371 provided under subsection (f)(1) shall provide written notice to prospective enrollees prior to
372 enrollment with the plan, listing the contraceptive health care services the employer refuses to
373 cover for religious reasons.

374 (g) Nothing in this subsection shall be construed to exclude coverage for contraceptive
375 drugs, devices, products and procedures as prescribed by a provider, acting within his/her scope
376 of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian
377 cancer or eliminating symptoms of menopause or for contraception that is necessary to preserve
378 the life or health of an enrollee.

379 (h) Nothing in this subsection shall be construed to deny or restrict in any way the
380 division of insurance's authority to ensure health maintenance contract compliance with this
381 chapter.

382 (i) Nothing in this subsection shall be construed to require an individual or group health
383 maintenance contract to cover experimental or investigational treatments.

384 (j) For purposes of this section, the following words shall have the following meanings,
385 unless the context clearly requires otherwise:

386 “Church”, a church, a convention or association of churches, or an elementary or
387 secondary school which is controlled, operated, or principally supported by a church or by a
388 convention or association of churches.

389 “Provider”, an individual or facility licensed, certified, or otherwise authorized or
390 permitted by law to administer health care in the ordinary course of business or professional
391 practice.

392 “Qualified church-controlled organization”, described in section 501(c)(3) of the Internal
393 Revenue Code, other than an organization which--

394 (i) offers goods, services, or facilities for sale, other than on an incidental basis, to the
395 general public, other than goods, services, or facilities which are sold at a nominal charge which
396 is substantially less than the cost of providing such goods, services, or facilities; and

397 (ii) normally receives more than 25 percent of its support from either (I) governmental
398 sources, or (II) receipts from admissions, sales of merchandise, performance of services, or
399 furnishing of facilities, in activities which are not unrelated trades or businesses, or both.

400 Contraceptive drugs, devices, or products classified as “therapeutic equivalents” means
401 (1) they are approved as safe and effective; and (2) they are pharmaceutical equivalents in that
402 they (a) contain identical amounts of the same active drug ingredient in the same dosage form

403 and route of administration, and (b) meet compendial or other applicable standards of strength,
404 quality, purity, and identity; provided further that to be considered a “therapeutic equivalent”, the
405 contraceptive drugs, devices, or products must be assigned the same therapeutic equivalence
406 code by the FDA.

407 SECTION 7. Sections 1 through 6 of this act shall apply to all policies, contracts and
408 certificates of health insurance subject to chapters 32A, chapter 118E, chapter 175, chapter
409 176A, chapter 176B, and chapter 176G which are delivered, issued or renewed on or after
410 September 1, 2017.