

Assembly Bill No. 147–Assemblymen Ohrenschall, Pierce, Kirkpatrick, Dondero Loop, Kirner; Aizley, Elliot Anderson, Benitez-Thompson, Bobzien, Bustamante Adams, Carlton, Carrillo, Cohen, Daly, Diaz, Fiore, Frierson, Hambrick, Healey, Hickey, Horne, Martin, Munford, Neal, Spiegel and Swank

Joint Sponsors: Senators Segerblom, Denis, Manendo, Jones, Spearman; Ford, Kihuen and Woodhouse

CHAPTER.....

AN ACT relating to mammography; requiring a statement of the density of the patient's breasts and a notice prescribed by the State Board of Health regarding breast density to be included in a report provided to a patient; authorizing an administrative fine for failure to comply with such requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under federal law, a facility that performs a mammogram must provide directly to each patient a summary report describing the results of the mammogram written in terms that are easily understood by a lay person. (42 U.S.C. § 263b) Existing state law imposes certain requirements on the operation of a machine used to perform mammography and further provides for the imposition of an administrative fine for operation in violation of those requirements. (NRS 457.182-457.187) This bill requires the owner, lessee or other person responsible for the radiation machine for mammography that was used to perform a mammogram to ensure that the summary report required by federal law includes a statement of the density of the patient's breasts and a notice prescribed by the State Board of Health that includes certain information relating to breast density, breast cancer and the impact of breast density on the effectiveness of mammography. In addition, this bill authorizes the Health Division of the Department of Health and Human Services to impose an administrative fine for failure to provide such notice. (NRS 457.187)

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 457 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a patient undergoes mammography, the owner, lessee or other person responsible for the radiation machine for mammography that was used to perform the mammography must ensure that each report provided to the patient pursuant to 42 U.S.C. § 263b(f)(1)(G)(ii)(IV) includes, without limitation, a



statement of the category of the patient's breast density which is determined based on the Breast Imaging Reporting and Database System or such other guidelines as required by the State Board of Health by regulation, and the notice prescribed by the State Board of Health pursuant to subsection 2.

2. The State Board of Health shall prescribe by regulation the notice to be included in a report pursuant to subsection 1. The notice must include:

(a) A statement regarding the benefits, risks and limitations of mammograms;

(b) A description of factors that may affect the accuracy of a mammogram, including, without limitation, the density of breast tissue or the presence of breast implants;

(c) A statement that encourages the patient to discuss with his or her provider of health care the patient's specific risk factors for developing breast cancer; and

(d) A statement that encourages the patient to discuss with his or her provider of health care whether the patient should adjust his or her schedule for mammograms or consider other appropriate screening options as a result of the patient's breast density.

3. The notice prescribed by regulation pursuant to subsection 2 may include, without limitation:

(a) A statement regarding the prevalence of dense breast tissue, the relationship between breast density and breast cancer and the manner in which breast density may change over time; and

(b) A description of the factors that affect the risk of developing breast cancer.

4. Nothing in this section shall be construed to:

(a) Create a duty of care or other legal obligation beyond the duty to provide the notice as set forth in this section.

(b) Require a notice to be provided to a patient that is inconsistent with the notice required by the provisions of 42 U.S.C. § 263b or any regulations promulgated pursuant thereto.

Sec. 2. NRS 457.182 is hereby amended to read as follows:

457.182 As used in NRS 457.182 to 457.187, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. "Mammography" means radiography of the breast to enable a physician to determine the presence, size, location and extent of cancerous or potentially cancerous tissue in the breast.

2. "Radiation" means radiant energy which exceeds normal background levels and which is used in radiography.



3. "Radiography" means the making of a film or other record of an internal structure of the body by passing X rays or gamma rays through the body to act on film or other receptor of images.

Sec. 3. NRS 457.187 is hereby amended to read as follows:

457.187 1. The Health Division may impose an administrative fine, not to exceed \$5,000, against the owner, lessee or other person responsible for a radiation machine for mammography for a violation of the provisions of NRS 457.182 to 457.186, inclusive, *and section 1 of this act*, or for a violation of a regulation adopted pursuant thereto.

2. Any money collected as a result of an administrative fine imposed pursuant to subsection 1 must be deposited in the State General Fund.

Sec. 4. On or before January 1, 2014, the State Board of Health shall adopt the regulations required by section 1 of this act.

Sec. 5. This act becomes effective upon passage and approval for the purpose of adopting regulations and any other preparatory administrative tasks and on January 1, 2014, for all other purposes.

