

Amendment No. 868

Senate Amendment to Assembly Bill No. 147 First Reprint (BDR 40-172)

Proposed by: Senator Segerblom

Amends: Summary: Yes Title: Yes Preamble: Delete Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

RBL



Date: 5/24/2013

A.B. No. 147—Requires the notification of patients regarding breast density and supplementary mammographic screening tests. (BDR 40-172)



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

FEBRUARY 18, 2013

JOINT SPONSORS: SENATORS SEGERBLOM, DENIS, MANENDO, JONES, SPEARMAN; FORD, KIHUEN AND WOODHOUSE

Referred to Committee on Health and Human Services

SUMMARY—Requires the notification of patients regarding breast density ~~and supplementary mammographic screening tests.~~ (BDR 40-172)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

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 ~~provide~~ **comply with such notice 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 ~~encouraging the patient to discuss the notice with his or her physician or other provider of health care.~~ **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)

~~WHEREAS, Forty percent of women have dense breast tissue; and
WHEREAS, Breast density is one of the strongest predictors of the failure of
mammography to detect cancer; and
WHEREAS, Breast density is a greater risk factor for breast cancer than having
two first degree relatives with breast cancer; and
WHEREAS, The vast majority of women are unaware of the density of their
breasts; and
WHEREAS, Less than 1 in 10 women with dense breast tissue learn about their
dense breast tissue from their doctors; and
WHEREAS, Several states, including Connecticut, Texas, Virginia, New York
and California, have enacted legislation relating to notification of breast density;
now, therefore,}~~

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 ~~subsequent~~ such other guidelines established by the American College of Radiology, or its successor organization, as required by the State Board of Health by regulation, and ~~the following~~ the notice }

~~The information about the results of your mammography report in relation to the density of your breast tissue is provided to you to raise your awareness. Dense breast tissue is common and not abnormal. As breast density increases, the ability of a mammogram to identify cancer or suspicious abnormalities decreases, which may increase the risk of breast cancer not being detected until a later stage. Density may change over time and generally diminishes with age, but varies by person. Many factors affect a person's risk of developing breast cancer, including family history, personal medical history, smoking and, according to some studies, increased breast density. Use this letter when you speak with your physician or other provider of health care about your own individual risk factors for breast cancer. At that time, ask your physician or other provider of health care if further testing might be useful.~~
~~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.