

BILL ANALYSIS

Senate Research Center

H.B. 1534
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Health & Human Services
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Engrossed

DIGEST

In 1993, the 73rd Legislature passed H.B. 63, which established a system of regulating mammography devices and the practice of mammography. At approximately the same time the legislature was considering H.B. 63, the U.S. Congress adopted a similar law that mandated all of the states to comply with certain mammography standards. The legislature was not able to anticipate all of the provisions that would be contained in the federal law when it was finally adopted since both the federal and state laws were going through the legislative process at the same time. This bill would bring Texas law into conformity with the federal law. Additionally, this bill would provide that notice be given to those women receiving mammograms at facilities which fail to satisfy the Texas Board of Health certification standards.

PURPOSE

As proposed, H.B. 1534 brings Texas law into conformity with the federal law regarding mammography systems; provides that notice be given to those women receiving mammograms at facilities which fail to satisfy the Texas Board of Health certification standards.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Board of Health in SECTION 5 (Section 401.430(i), Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 401.423(b), Health and Safety Code, to require the Texas Department of Health (department), rather than the Texas Board of Health (board), to apply under the Mammography Quality Standards Act of 1992 (42 U.S.C. Section 263b, rather than Section 354) to become an accreditation body and carry out the certification program requirements and to implement the standards established by the U.S. Secretary of Health under that Act in this state. Makes conforming changes.

SECTION 2. Amends Sections 401.424(a) and (e), Health and Safety Code, to require a mammography system, to receive a mammography certification under this subchapter, among other conditions, to be operated by an individual certified as a medical radiologic technologist under Article 4512m, V.T.C.S., who meets, at a minimum, the requirements for personnel who perform mammography established by the Mammography Quality Standards Act of 1992 (42 U.S.C. Section 263b), rather than one who has successfully completed special training in mammography; and to be used in a facility that, among other conditions, maintains and makes available to a patient of the facility original mammograms performed at the facility until the earlier of the fifth anniversary of the mammography or, if an additional mammogram of the same patient is not performed by the facility, the 10th anniversary of the mammography; or at the request of the patient, the date the patient's medical records are forwarded to another medical institution. Makes conforming changes.

SECTION 3. Amends Section 401.426(a), Health and Safety Code, to delete reference to Section 401.425.

SECTION 4. Amends Section 401.427, Health and Safety Code, as follows:

Sec. 401.427. New heading: CERTIFICATION RENEWAL; FEES. Provides that a certification is valid for three years, rather than one year and may be renewed annually on payment of the required renewal fee. Requires the board to set and collect an annual fee for certification holders in an amount reasonable and necessary to administer this subchapter. Requires a certification holder who fails to pay the annual fee before the date set by the board to pay the annual fee and a late fee set by the board. Authorizes the board to revoke the certification of a certification holder who does not pay the annual fee and late fee before the required date. Authorizes a certification holder to renew the certification by filing an application for renewal and paying the annual fee before the date the certification expires. Makes conforming changes.

SECTION 5. Amends Section 401.430, Health and Safety Code, to require the department to inspect each mammography system that has not been fully certified under the Mammography Quality Standards Act of 1992 (42 U.S.C. Section 263b), rather than receives a certification under this subchapter, no later than the 60th day after the date the certification under this subchapter is issued. Requires the department to inspect each mammography system that receives a certification under this subchapter. Requires a facility, if the facility's mammography system fails to meet the department's certification standards and the failure is a Severity Level I violation under the department's rules, to notify each patient to whom the facility performed a mammography during the 30 days preceding the date of the inspection that revealed the failure. Requires the facility to perform certain actions. Authorizes the department to require a facility to notify a patient of any other failure of the facility's mammography system to meet the department's certification standards. Authorizes the board to adopt rules concerning, among other items, the grounds for patient notification under Subsections (g) and (h).

SECTION 6. Repealer: Section 401.425, Health and Safety Code (Alternative Certification; Exemptions).

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.