

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 762
By: Nelson
Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statutes require notification of patients who were examined during the 30-day period preceding a mammography facility inspection violation. Often, these patients were not affected by the violation.

C.S.S.B. 762 provides for the use and maintenance of the radiation and perpetual care account by the Texas Department of Health (now the Department of State Health Services) as it relates to the protection of the health and safety of mammography patients and their medical records.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of State Health Services in SECTION 2 (Section 401.4261, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality (TCEQ), as the successor agency to TNRCC.]

SECTION 1. Amends Sections 401.305(c), (e), (f), and (g), Health and Safety Code, as follows:

(c) Authorizes money and security in the radiation and perpetual care account (account) to be administered by the Texas Department of Health (TDH) or the Texas Natural Resource Conservation Commission (TNRCC) only for storage, maintenance, and distribution of mammography medical records, in addition to the uses of radioactive material for the protection of the public health and safety and the environment under this chapter and for refunds under Section 401.303.

(e) Authorizes TDH to use money in the account to pay for measures to protect the health and safety of mammography patients by assuring that mammography medical records are made available to affected patients.

(f) Authorizes TDH to provide, by the terms of a contract or lease entered into between TDH and any person or by the terms of a mammography certification issued by TDH to any person or by the terms of a license issued to any person, for the storage, maintenance and distribution of mammography medical records, or by the terms of a license issued by TDH to any person, for decontamination, closure, decommissioning reclamation, surveillance, or other care of a site of facility subject to TDH jurisdiction under this chapter as needed to carry out the purpose of this chapter.

(g) Provides that the existence of the account does not make TDH liable for the costs of storage, maintenance and distribution of mammography medical records arising from mammography certification holders' failure to store, maintain and make available mammography medical records, in addition to the costs for decontamination, transfer, transportation, reclamation, surveillance, or disposal of radioactive material arising from

a license holder's abandonment of radioactive material, default on a lawful obligation, insolvency, or inability to meet the requirements of this chapter or TDH rules.

SECTION 2. Amends Subchapter L, Chapter 401, Health and Safety Code, by adding Section 401.4261, as follows:

Sec. 401.4261. SECURITY. (a) Authorizes TDH to require a person who holds a certification to provide security to assure performance of the person's obligations related to storing and maintaining mammography records as required by this subchapter and TDH rule.

(b) Requires TDH to deposit the security to the credit of the account.

(c) Requires TDH by rule to determine the amount and type of security required under this section in accordance with reasonable estimates of the costs of storage and maintenance of mammography records in a manner that protects the public health and safety.

SECTION 3. Amends Section 401.430(f), Health and Safety Code, to authorize TDH, if, as a result of an inspection, TDH determines that a facility's mammography system fails to meet the TDH's certification standards and the quality of mammography produced by that system creates a serious risk to public health, to require that the facility notify each patient affected. Requires the facility to recommend that the patient consult with the patient's physician regarding the need for another mammogram. Deletes existing text relating to the current practices of mammography inspection.

SECTION 4. Effective date: September 1, 2007.