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S.B. No. 762

A BILL TO BE ENTITLED

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AN ACT

relating to the certification and regulation of mammography systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (c), (e), (f), and (g), Section 401.305, Health and Safety Code, are amended to read as follows:

(c) Money and security in the perpetual care account may be administered by the department or commission only for storage, maintenance, and distribution of mammography medical records or the decontamination, decommissioning, stabilization, reclamation, maintenance, surveillance, control, storage, and disposal 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) The department may use money in the perpetual care account to pay for measures:

(1) to prevent or mitigate the adverse effects of abandonment of radioactive materials, default on a lawful obligation, insolvency, or other inability by the holder of a license issued by the department to meet the requirements of this chapter or department rules; ~~and~~

(2) to assure the protection of the public health and safety and the environment from the adverse effects of ionizing radiation ; and

1 (3) to protect the health and safety of mammography
2 patients by assuring mammography medical records are made available
3 to affected patients.

4 (f) The department may provide, by the terms of a contract
5 or lease entered into between the department and any person, by the
6 terms of a mammography certification issued by the department to
7 any person, or by the terms of a license issued to any person, for
8 the storage, maintenance and distribution of mammography medical
9 records, and the department may provide, by the terms of a contract
10 or lease entered into between the department and any person or by
11 the terms of a license issued by the department to any person, for
12 the decontamination, closure, decommissioning, reclamation,
13 surveillance, or other care of a site or facility subject to
14 department jurisdiction under this chapter as needed to carry out
15 the purpose of this chapter.

16 (g) The existence of the perpetual care account does not
17 make the department liable for the costs of storage, maintenance,
18 and distribution of mammography medical records arising from
19 mammography certification holders' failure to store, maintain, and
20 make available mammography medical records or for the costs of
21 decontamination, transfer, transportation, reclamation,
22 surveillance, or disposal of radioactive material arising from a
23 license holder's abandonment of radioactive material, default on a
24 lawful obligation, insolvency, or inability to meet the
25 requirements of this chapter or department rules.

26 SECTION 2. Subchapter L, Chapter 401, Health and Safety
27 Code, is amended by adding Section 401.4261 to read as follows:

1 Sec. 401.4261. SECURITY. (a) The department may require a
2 person who holds a certification to provide security to assure
3 performance of the person's obligations related to storing and
4 maintaining mammography records as required by this subchapter and
5 department rule.

6 (b) The department shall deposit the security to the credit
7 of the perpetual care account.

8 (c) The department by rule shall determine the amount and
9 type of security required under this section in accordance with
10 reasonable estimates of the costs of storage and maintenance of
11 mammography records in a manner that protects the public health and
12 safety.

13 SECTION 3. Subsection (f), Section 401.430, Health and
14 Safety Code, is amended to read as follows:

15 (f) If, as a result of an inspection, the department
16 determines that a facility's mammography system fails to meet the
17 department's certification standards and the quality of
18 mammography produced by that system creates a serious risk to
19 public health, the department may require that ~~[the failure is a~~
20 ~~Severity Level I violation under the department's rules,~~] the
21 facility ~~[shall]~~ notify each patient affected ~~[on whom the facility~~
22 ~~performed a mammography during the 30 days preceding the date of the~~
23 ~~inspection that revealed the failure]~~. The facility shall:

24 (1) inform the patient that the mammography system
25 failed to satisfy the department's certification standards;

26 (2) recommend that the patient consult with the
27 patient's physician regarding the need for another mammogram ~~[have~~

1 ~~another mammogram performed at a facility with a certified~~
2 ~~mammography system]; and~~

3 (3) list the three facilities closest to the original
4 testing facility that have a certified mammography system.

5 SECTION 4. This Act takes effect September 1, 2007.