

1-1 By: Nelson S.B. No. 762
1-2 (In the Senate - Filed February 20, 2007; March 6, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 19, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 762 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the certification and regulation of mammography
1-11 systems.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsections (c), (e), (f), and (g), Section
1-14 401.305, Health and Safety Code, are amended to read as follows:

1-15 (c) Money and security in the perpetual care account may be
1-16 administered by the department or commission only for storage,
1-17 maintenance, and distribution of mammography medical records or the
1-18 decontamination, decommissioning, stabilization, reclamation,
1-19 maintenance, surveillance, control, storage, and disposal of
1-20 radioactive material for the protection of the public health and
1-21 safety and the environment under this chapter and for refunds under
1-22 Section 401.303.

1-23 (e) The department may use money in the perpetual care
1-24 account to pay for measures:

1-25 (1) to prevent or mitigate the adverse effects of
1-26 abandonment of radioactive materials, default on a lawful
1-27 obligation, insolvency, or other inability by the holder of a
1-28 license issued by the department to meet the requirements of this
1-29 chapter or department rules; ~~and~~

1-30 (2) to assure the protection of the public health and
1-31 safety and the environment from the adverse effects of ionizing
1-32 radiation; and

1-33 (3) to protect the health and safety of mammography
1-34 patients by assuring mammography medical records are made available
1-35 to affected patients.

1-36 (f) The department may provide, by the terms of a contract
1-37 or lease entered into between the department and any person, by the
1-38 terms of a mammography certification issued by the department to
1-39 any person, or by the terms of a license issued to any person, for
1-40 the storage, maintenance and distribution of mammography medical
1-41 records, and the department may provide, by the terms of a contract
1-42 or lease entered into between the department and any person or by
1-43 the terms of a license issued by the department to any person, for
1-44 decontamination, closure, decommissioning, reclamation,
1-45 surveillance, or other care of a site or facility subject to
1-46 department jurisdiction under this chapter as needed to carry out
1-47 the purpose of this chapter.

1-48 (g) The existence of the perpetual care account does not
1-49 make the department liable for the costs of storage, maintenance,
1-50 and distribution of mammography medical records arising from
1-51 mammography certification holders' failure to store, maintain, and
1-52 make available mammography medical records or for the costs of
1-53 decontamination, transfer, transportation, reclamation,
1-54 surveillance, or disposal of radioactive material arising from a
1-55 license holder's abandonment of radioactive material, default on a
1-56 lawful obligation, insolvency, or inability to meet the
1-57 requirements of this chapter or department rules.

1-58 SECTION 2. Subchapter L, Chapter 401, Health and Safety
1-59 Code, is amended by adding Section 401.4261 to read as follows:

1-60 Sec. 401.4261. SECURITY. (a) The department may require a
1-61 person who holds a certification to provide security to assure
1-62 performance of the person's obligations related to storing and
1-63 maintaining mammography records as required by this subchapter and

2-1 department rule.

2-2 (b) The department shall deposit the security to the credit
2-3 of the perpetual care account.

2-4 (c) The department by rule shall determine the amount and
2-5 type of security required under this section in accordance with
2-6 reasonable estimates of the costs of storage and maintenance of
2-7 mammography records in a manner that protects the public health and
2-8 safety.

2-9 SECTION 3. Subsection (f), Section 401.430, Health and
2-10 Safety Code, is amended to read as follows:

2-11 (f) If, as a result of an inspection, the department
2-12 determines that a facility's mammography system fails to meet the
2-13 department's certification standards and the quality of
2-14 mammography produced by that system creates a serious risk to
2-15 public health, the department may require that ~~[the failure is a~~
2-16 ~~Severity Level I violation under the department's rules,]~~ the
2-17 facility ~~[shall]~~ notify each patient affected ~~[on whom the facility~~
2-18 ~~performed a mammography during the 30 days preceding the date of the~~
2-19 ~~inspection that revealed the failure]~~. The facility shall:

2-20 (1) inform the patient that the mammography system
2-21 failed to satisfy the department's certification standards;

2-22 (2) recommend that the patient consult with the
2-23 patient's physician regarding the need for another mammogram ~~[have~~
2-24 ~~another mammogram performed at a facility with a certified~~
2-25 ~~mammography system]~~; and

2-26 (3) list the three facilities closest to the original
2-27 testing facility that have a certified mammography system.

2-28 SECTION 4. This Act takes effect September 1, 2007.

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