

- SUBJECT:** Notifying patients of mammography system that failed certification
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 9 ayes — Kolkhorst, Naishtat, Coleman, J. Davis, Gonzales, S. King, McReynolds, Truitt, Zerwas
- 0 nays
- 2 absent — Hopson, Laubenberg
- SENATE VOTE:** On final passage, March 19 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Ramona Magid, Susan G. Komen for the Cure; (*Registered, but did not testify*: Dan Finch, Texas Medical Association; Denise Rose, Texas Hospital Association; Kristine Weaver, American Cancer Society)
- Against — None
- On — Richard Ratliff, Texas Dept. of State Health Services; Lynda Woolbert, Coalition for Nurses in Advanced Practice
- BACKGROUND:** Under Health and Safety Code, sec. 401.430 (f), if a mammography facility's mammography system fails to meet the Department of State Health Services' (DSHS) certification standards and the failure is a Severity Level I violation under the department's rules, the facility is required to notify each patient on whom the facility performed a mammography during the 30 days preceding the date of the inspection that revealed the failure.
- Currently, the facility notification must inform the patient that the facility failed to meet the department's standards, recommend that the patient have another mammogram done at a certified facility, and list the three closest certified facilities to the original testing facility.
- DIGEST:** SB 527 would amend Health and Safety Code, sec. 401.430(f) to require a facility whose mammography system failed to meet DSHS standards with

a Severity Level I violation to notify each patient who received a mammogram during the time the system failed to meet the standards.

SB 527 would require the facility notification to inform the patient that the facility failed to meet the department's standards, recommend that the patient consult with the patient's physician regarding the need for another mammogram, and list the three closest certified facilities to the original testing facility.

The bill would take effect September 1, 2009

**SUPPORTERS
SAY:**

SB 527 would allow facilities that perform mammography to correctly target the patients who received improper mammograms. The affected patients, and only the affected patients, should be notified of the failed inspection and should be advised to consult with their physicians regarding the need for a second mammogram.

Patients should be able to have trust in these facilities, and unnecessarily alarming unaffected patients jeopardizes that trust and could cause them to be reluctant to follow through with annual mammograms. Mammography is the best tool for detecting breast cancer at its earliest, most treatable stages. The trend of women not receiving annual mammograms needs to be addressed, and this bill would help with that issue.

Under SB 527, patients would be advised to discuss the need for a second mammogram with their physicians, which would allow patients and their physicians to make an informed decision together.

Concerns about the particular health care providers whom patients should be advised to consult in making a decision about a follow-up mammogram could be addressed with a floor amendment that would advise patients to consult with their physicians or their referring health care providers.

**OPPONENTS
SAY:**

The notices sent to patients regarding failed inspections at facilities that perform mammography should recommend that the patients consult either their physicians or their referring health care providers. Although it is usually the patient's physician who orders the mammogram, it is not uncommon for the health care provider to be a nurse practitioner or a nurse-midwife. The health care provider best equipped to advise and respond to the concerns of the patient is the health care provider who knows the patient best and initially referred her for the mammogram.

Also, the referring health care providers need to know that the facility to which they are referring their patients failed to meet certification standards.

**OTHER
OPPONENTS
SAY:**

SB 527 should require facilities that perform mammography and fail inspections to recommend that a patient who has had an improper mammogram consult the patient's health care provider and the patient's physician regarding the need for a second mammogram. It is important for the physician to be involved in the decision about the need for a second mammogram even if the physician was not the one who initially referred the patient for a mammogram.

NOTES:

The sponsor plans to offer a floor amendment that would require facilities to recommend that the patient consult the patient's physician or the patient's referring health care provider regarding the need for a second mammogram.