

2015 Regular Session

HOUSE BILL NO. 186

BY REPRESENTATIVE MONTOUCET

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH/CANCER: Provides for notification to patients concerning supplemental breast cancer screening

1 AN ACT

2 To amend and reenact R.S. 40:1300.181(A), 1300.182, and 1300.183, relative to breast  
3 cancer screening services; to provide relative to screening mammograms and breast  
4 ultrasound examinations; to provide for notification concerning supplemental  
5 screening; to prescribe language to be included in such notifications; to provide for  
6 limitation of liability; to specify an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1300.181(A), 1300.182, and 1300.183 are hereby amended and  
9 reenacted to read as follows:

10 §1300.181. Screening mammography and ultrasound examination permitted

11 A. Notwithstanding any provision of law to the contrary, including but not  
12 limited to R.S. 37:3213 and ~~R.S. 37:3219~~ 3219, any person who may legally perform  
13 a mammography or breast ultrasound examination in this state may perform a  
14 screening mammography or breast ultrasound examination without the direction by  
15 prescription of a licensed practitioner.

16 \* \* \*

17 §1300.182. Notification of results; notice concerning supplemental screening

18 A. Each patient shall be given the opportunity to name a physician to receive  
19 the results of any screening mammogram or breast ultrasound examination

1 performed ~~pursuant to this Part~~ without the direction by prescription of a licensed  
2 practitioner.

3 B. The report of results mailed to the patient and to ~~the named~~ any physician  
4 named pursuant to Subsection A of this Section shall clearly state whether the need  
5 for any follow-up care is indicated by the mammogram or ultrasound examination.

6 C.(1) Upon completion of any screening mammogram or breast ultrasound  
7 examination, regardless of whether the mammogram or ultrasound examination was  
8 directed by prescription of a licensed practitioner, each mammography facility  
9 certified by the United States Food and Drug Administration or by a certification  
10 agency approved by the United States Food and Drug Administration shall mail to  
11 the patient, in addition to any letter or report required by 21 CFR Part 900, the  
12 following notice in conspicuous and legible type which is not smaller than  
13 twelve-point font:

14 "If your mammogram or ultrasound examination demonstrates that you have  
15 dense breast tissue, which could hide abnormalities, and you have other risk factors  
16 for breast cancer that have been identified, you might benefit from supplemental  
17 screening tests that may be suggested by your ordering physician.

18 Dense breast tissue, in and of itself, is a relatively common condition.  
19 Therefore, this information is not provided to cause undue concern, but rather to  
20 raise your awareness and to promote discussion with your physician regarding the  
21 presence of other risk factors, in addition to dense breast tissue."

22 (2) The notice provided for in Paragraph (1) of this Subsection may be  
23 transmitted to the patient by either regular mail or certified mail via the United States  
24 Postal Service, or by any other commercial mail delivery service.

25 (3) Notwithstanding any other law, compliance with this Subsection does not  
26 create a cause of action or create a standard of care, obligation, or duty that provides  
27 a basis for a cause of action.

1           §1300.183. Limitation of liability

2                   A. Any liability or responsibility for any subsequent or follow-up care and  
3 treatment of an individual who receives a screening mammogram or breast  
4 ultrasound examination pursuant to ~~this Part~~ R.S. 40:1300.181 on the part of the  
5 performer of that ~~screening~~ mammogram or ultrasound examination, or on the part  
6 of any physician performing an assessment of a screening mammogram or breast  
7 ultrasound examination, shall cease upon delivery of the results or report of such  
8 ~~screening~~ mammogram or breast ultrasound examination to the screened, examined,  
9 or tested individual and to any physician named by the patient to receive such results.  
10 These results shall be sent by certified mail, return receipt requested, and shall  
11 comply with the reporting requirements for mammography results in the federal  
12 Mammography Quality Standards Act, 42 ~~USC~~ U.S.C. 263b, and any regulations  
13 promulgated pursuant thereto, including 21 CFR 900.1 et seq.

14                   B. The liability of a supervising licensed practitioner for follow-up of  
15 patients following a screening mammogram or breast ultrasound examination shall  
16 be limited to informing the patient and a designated physician in accordance with the  
17 guidelines issued under the Mammography Quality Standards Act, 42 ~~USC~~ U.S.C.  
18 263b, and any regulations promulgated pursuant thereto, including 21 CFR 900.1 et  
19 seq.

20           Section 2.(A) The legislature hereby declares that early detection of breast cancer  
21 saves lives, and that facilitating early detection of all forms of cancer is a public health  
22 priority of this state.

23           (B) This Act shall be known as the "Monica Landry Helo Early Detection Act".

24           Section 3. This Act shall become effective on January 1, 2016.

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 186 Engrossed

2015 Regular Session

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**Abstract:** Requires that a notification concerning supplemental breast cancer screening be transmitted to patients pursuant to any screening mammogram or breast ultrasound examination.

Present law relative to access to mammograms provides that any person who may legally perform a mammography in this state may perform a screening mammography without the direction to do so by prescription of a licensed practitioner. Provides for notification to patients of results of screening mammograms.

Proposed law retains present law, and adds thereto the following:

- (1) Designation of breast ultrasound examinations in addition to mammograms as breast cancer screening procedures which may be performed without direction to do so by prescription of a licensed practitioner.
- (2) A requirement that, in addition to any letters or reports to patients pursuant to any screening mammogram or breast ultrasound examination as may be required by federal law, the following notice be transmitted to patients pursuant to such mammograms and ultrasound examinations:

"If your mammogram or ultrasound examination demonstrates that you have dense breast tissue, which could hide abnormalities, and you have other risk factors for breast cancer that have been identified, you might benefit from supplemental screening tests that may be suggested by your ordering physician.

Dense breast tissue, in and of itself, is a relatively common condition. Therefore, this information is not provided to cause undue concern, but rather to raise your awareness and to promote discussion with your physician regarding the presence of other risk factors, in addition to dense breast tissue."

Proposed law provides that the notification concerning supplemental screening required by proposed law may be transmitted by either regular mail or certified mail via the U.S. Postal Service, or by any other commercial mail delivery service.

Proposed law provides that compliance with proposed law and present law does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

Proposed law provides a legislative declaration indicating that early detection of breast cancer saves lives, and that facilitating early detection of all forms of cancer is a public health priority of this state.

Proposed law shall be known as the "Monica Landry Helo Early Detection Act".

Effective Jan. 1, 2016.

(Amends R.S. 40:1300.181(A), 1300.182, and 1300.183)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Specify that the notification concerning supplemental screening required by proposed law shall be transmitted to patients pursuant to any screening mammogram or breast ultrasound examination, regardless of whether the procedure was directed by prescription or performed pursuant to self-referral by a patient.
2. Provide that the notification concerning supplemental screening required by proposed law may be transmitted by either regular mail or certified mail via the U.S. Postal Service, or by any other commercial mail delivery service.
3. Delete proposed law providing that the information concerning supplemental screening required by proposed law or evidence that a person violated the provisions of proposed law is not admissible in a civil, judicial, or administrative proceeding.
4. Make technical changes.