

AMENDED IN SENATE MARCH 30, 2011

**SENATE BILL**

**No. 173**

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**Introduced by Senator Simitian**

February 7, 2011

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An act to *add Section 687 to the Business and Professions Code, to amend Section 1367.65 of the Health and Safety Code, and to amend Section 10123.81 of the Insurance Code, relating to health care coverage.*

LEGISLATIVE COUNSEL'S DIGEST

SB 173, as amended, Simitian. Health care coverage: mammograms.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of its provisions a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance. *Existing law provides for the regulation of health care practitioners, as defined.* Existing law requires health care service plan contracts, except specialized health care service plan contracts, and certain health insurance policies to provide a certain level of coverage for mammograms and breast cancer screening and diagnosis, as specified.

This bill would require those health care service plan contracts and health insurance policies to include additional benefits for comprehensive ~~ultrasound~~ *breast cancer* screening under specified circumstances. The bill would require ~~a patient receiving treatment a health care practitioner who performs a mammography examination~~ *under those coverage provisions to also receive include in the mammography report* information on breast density, as specified.

Because a willful violation of the bill’s provisions under the Knox-Keene Act is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 687 is added to the Business and  
2 Professions Code, to read:

3 687. (a) A health care practitioner who performs a  
4 mammography examination pursuant to Section 1367.65 of the  
5 Health and Safety Code or Section 10123.81 of the Insurance Code  
6 shall include in the mammography report information about breast  
7 density, based on the Breast Imaging Reporting and Data System  
8 established by the American College of Radiology. When  
9 applicable, the report shall also include the following notice:

10  
11 “If your mammogram demonstrates that you have dense breast  
12 tissue, which could hide small abnormalities, you might benefit  
13 from supplementary screening tests, which can include a breast  
14 ultrasound screening or a breast MRI examination, or both,  
15 depending on your individual risk factors. A report of your  
16 mammography results, which contains information about your  
17 breast density, has been sent to your physician’s office and you  
18 should contact your physician if you have any questions or  
19 concerns about this report.”

20  
21 (b) “Health care practitioner” means a person licensed or  
22 certified pursuant to this division or licensed pursuant to the  
23 Osteopathic Initiative Act.

24 SECTION 1.

25 SEC. 2. Section 1367.65 of the Health and Safety Code is  
26 amended to read:

1 1367.65. (a) (1) On or after January 1, 2000, every health care  
2 service plan contract, except a specialized health care service plan  
3 contract, that is issued, amended, delivered, or renewed shall be  
4 deemed to provide coverage for mammography for screening or  
5 diagnostic purposes upon referral by a participating nurse  
6 practitioner, participating certified nurse midwife, or participating  
7 physician and surgeon, providing care to the patient and operating  
8 within the scope of practice provided under existing law.

9 (2) In addition to the coverage required under paragraph (1), on  
10 or after January 1, 2012, every health care service plan contract,  
11 *except a specialized health care service plan contract*, that is  
12 issued, amended, delivered, or renewed shall also provide  
13 additional benefits for comprehensive ~~ultrasound~~ screening of an  
14 entire breast or breasts if a mammogram demonstrates  
15 heterogeneous or dense breast tissue based on the Breast Imaging  
16 Reporting and Data System established by the American College  
17 of Radiology or if a patient is believed to be at increased risk for  
18 breast cancer due to family history or prior history of breast cancer,  
19 positive genetic testing, or other indications as determined by his  
20 or her nurse practitioner, nurse midwife, or physician and surgeon.

21 ~~(3) On and after January 1, 2012, every mammography report~~  
22 ~~provided to a patient pursuant to the coverage specified under~~  
23 ~~paragraph (1) or (2) shall include information about breast density,~~  
24 ~~based on the Breast Imaging Reporting and Data System~~  
25 ~~established by the American College of Radiology. When~~  
26 ~~applicable, the report shall also include the following notice:~~

27 —

28 ~~“If your mammogram demonstrates that you have dense breast~~  
29 ~~tissue, which could hide small abnormalities, you might benefit~~  
30 ~~from supplementary screening tests, which can include a breast~~  
31 ~~ultrasound screening or a breast MRI examination, or both,~~  
32 ~~depending on your individual risk factors. A report of your~~  
33 ~~mammography results, which contains information about your~~  
34 ~~breast density, has been sent to your physician’s office and you~~  
35 ~~should contact your physician if you have any questions or~~  
36 ~~concerns about this report.”~~

37 —

38 (b) Nothing in this section shall be construed to prevent  
39 application of copayment or deductible provisions in a plan, nor  
40 shall this section be construed to require that a plan be extended

1 to cover any other procedures under an individual or a group health  
 2 care service plan contract. Nothing in this section shall be construed  
 3 to authorize a plan enrollee to receive the services required to be  
 4 covered by this section if those services are furnished by a  
 5 nonparticipating provider, unless the plan enrollee is referred to  
 6 that provider by a participating physician and surgeon, nurse  
 7 practitioner, or certified nurse midwife providing care.

8 ~~SEC. 2.~~

9 *SEC. 3.* Section 10123.81 of the Insurance Code is amended  
 10 to read:

11 10123.81. (a) On or after January 1, 2000, every individual  
 12 or group policy of disability insurance or self-insured employee  
 13 welfare benefit plan that is issued, amended, or renewed, shall be  
 14 deemed to provide coverage for at least the following, upon the  
 15 referral of a nurse practitioner, certified nurse midwife, or physician  
 16 and surgeon, providing care to the patient and operating within  
 17 the scope of practice provided under existing law for breast cancer  
 18 screening or diagnostic purposes:

19 (1) A baseline mammogram for women age 35 to 39, inclusive.

20 (2) A mammogram for women age 40 to 49, inclusive, every  
 21 two years or more frequently based on the women's physician's  
 22 recommendation.

23 (3) A mammogram every year for women age 50 and over.

24 (b) In addition to the coverage required under subdivision (a),  
 25 on or after January 1, 2012, every health insurance policy, *except*  
 26 *a specialized health insurance policy*, that is issued, amended,  
 27 delivered, or renewed shall also provide additional benefits for  
 28 comprehensive ~~ultrasound~~ screening of an entire breast or breasts  
 29 if a mammogram demonstrates heterogeneous or dense breast  
 30 tissue based on the Breast Imaging Reporting and Data System  
 31 established by the American College of Radiology or if a patient  
 32 is believed to be at increased risk for breast cancer due to family  
 33 history or prior history of breast cancer, positive genetic testing,  
 34 or other indications as determined by his or her nurse practitioner,  
 35 nurse midwife, or physician and surgeon.

36 ~~(c) On and after January 1, 2012, every mammography report~~  
 37 ~~provided to a patient pursuant to the coverage specified under~~  
 38 ~~subdivision (a) or (b) shall include information about breast density,~~  
 39 ~~based on the Breast Imaging Reporting and Data System~~

1 established by the American College of Radiology. When  
2 applicable, the report shall also include the following notice:

3 —

4 “If your mammogram demonstrates that you have dense breast  
5 tissue, which could hide small abnormalities, you might benefit  
6 from supplementary screening tests, which can include a breast  
7 ultrasound screening or a breast MRI examination, or both,  
8 depending on your individual risk factors. A report of your  
9 mammography results, which contains information about your  
10 breast density, has been sent to your physician’s office and you  
11 should contact your physician if you have any questions or  
12 concerns about this report.”

13 —

14 (d)

15 (c) Nothing in this section shall be construed to require an  
16 individual or group policy to cover the surgical procedure known  
17 as mastectomy or to prevent application of deductible or copayment  
18 provisions contained in the policy or plan, nor shall this section  
19 be construed to require that coverage under an individual or group  
20 policy be extended to any other procedures.

21 (e)

22 (d) Nothing in this section shall be construed to authorize an  
23 insured or plan member to receive the coverage required by this  
24 section if that coverage is furnished by a nonparticipating provider,  
25 unless the insured or plan member is referred to that provider by  
26 a participating physician and surgeon, nurse practitioner, or  
27 certified nurse midwife providing care.

28 ~~SEC. 3.~~

29 *SEC. 4.* No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.