

ACT No. 378

HOUSE BILL NO. 186

BY REPRESENTATIVES MONTOUCET, ADAMS, BARROW, BILLIOT, WESLEY BISHOP, BOUIE, BROADWATER, BROWN, BURFORD, HENRY BURNS, BURRELL, CARMODY, CHANEY, CONNICK, COX, CROMER, DOVE, EDWARDS, FOIL, GAINES, GISCLAIR, GUILLORY, GUINN, HARRIS, HARRISON, HAVARD, HAZEL, HENRY, HILL, HONORE, HUNTER, JACKSON, JAMES, JEFFERSON, JONES, KLECKLEY, NANCY LANDRY, LEBAS, LEOPOLD, LORUSSO, MIGUEZ, MILLER, MORENO, JAY MORRIS, JIM MORRIS, NORTON, ORTEGO, PEARSON, PIERRE, PUGH, PYLANT, REYNOLDS, RICHARD, RITCHIE, ROBIDEAUX, SCHRODER, SMITH, ST. GERMAIN, TALBOT, THIERRY, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT

1 AN ACT

2 To amend and reenact R.S. 40:1300.182 and 1300.183, and to enact R.S. 40:1300.182.1 and
3 1300.182.2, relative to breast cancer screening services; to provide relative to
4 screening mammograms and breast ultrasound examinations; to require healthcare
5 facilities to transmit mammography and ultrasound reports to patients; to provide for
6 notification concerning supplemental screening; to prescribe language to be included
7 in such notifications; to provide for limitation of liability; to specify an effective
8 date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1300.182 and 1300.183 are hereby amended and reenacted and
11 R.S. 40:1300.182.1 and 1300.182.2 are hereby enacted to read as follows:

12 §1300.182. Notification of results

13 A. Each patient shall be given the opportunity to name a physician to receive
14 the results of any screening mammogram performed ~~pursuant to this Part~~ without the
15 direction by prescription of a licensed practitioner.

16 B. The report of results mailed to the patient and to ~~the named~~ any physician
17 named pursuant to Subsection A of this Section shall clearly state whether the need
18 for any follow-up care is indicated by the mammogram.

1 §1300.182.1. Notice concerning supplemental screening

2 A. Upon completion of any screening mammogram, regardless of whether
3 the mammogram was directed by prescription of a licensed practitioner, each
4 mammography facility certified by the United States Food and Drug Administration
5 or by a certification agency approved by the United States Food and Drug
6 Administration shall mail to the patient, in addition to any letter or report required
7 by 21 CFR Part 900, the following notice in conspicuous and legible type which is
8 not smaller than twelve-point font:

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

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

17 A summary of your mammography results will be sent to you, and a full
18 mammography report will be sent to your physician and also to you. You should
19 contact your physician if you have any questions or concerns regarding your
20 summary or report of results."

21 B. The notice provided for in this Section may be transmitted to the patient
22 by either regular mail or certified mail via the United States Postal Service, or by any
23 other commercial mail delivery service.

24 C. Notwithstanding any other law, compliance with this Section does not
25 create a cause of action or create a standard of care, obligation, or duty that provides
26 a basis for a cause of action.

27 D. The information required by this Section or evidence that a person
28 violated this Section shall not be admissible in a civil, judicial, or administrative
29 proceeding.

1 §1300.182.2. Mammography and ultrasound reports; transmittal to patients required

2 A. Each mammography facility certified by the United States Food and Drug
3 Administration or by a certification agency approved by the United States Food and
4 Drug Administration and every healthcare facility that performs breast ultrasound
5 examinations shall transmit to each mammography and ultrasound patient the
6 following, as appropriate to the procedure performed:

7 (1) A copy of the patient's mammography report, as defined in 21 CFR
8 900.12(c), issued by the facility to the patient's referring physician.

9 (2) A copy of the patient's full narrative radiology report of ultrasound
10 findings.

11 B.(1) Each healthcare facility subject to the requirements of this Section
12 shall transmit the mammography and ultrasound reports specified in Subsection A
13 of this Section to patients within the time frame prescribed in 21 CFR 900.12(c) for
14 communication of mammography results to healthcare providers.

15 (2) A healthcare facility subject to the requirements of this Section may
16 transmit mammography and ultrasound reports to patients in any manner that
17 comports with the provisions of 42 CFR Part 164 relative to security and privacy of
18 health information.

19 C. In addition to providing reports to patients in accordance with Subsection
20 A of this Section, a healthcare facility may provide such reports electronically
21 through an electronic patient portal that meets applicable standards provided in
22 federal law and regulation.

23 §1300.183. Limitation of liability

24 A. Any liability or responsibility for any subsequent or follow-up care and
25 treatment of an individual who receives a screening mammogram pursuant to ~~this~~
26 Part R.S. 40:1300.181 on the part of the performer of that screening mammogram or
27 any physician performing an assessment of a screening mammogram shall cease
28 upon delivery of the results or report of such screening mammogram to the screened
29 or tested individual and to any physician named by the patient to receive such results.

1 These results shall be sent by certified mail, return receipt requested, and shall
2 comply with the reporting requirements for mammography results in the federal
3 Mammography Quality Standards Act, 42 ~~USC~~ U.S.C. 263b, and any regulations
4 promulgated pursuant thereto, including 21 CFR 900.1 et seq.

5 B. The liability of a supervising licensed practitioner for follow-up of
6 patients following a screening mammogram shall be limited to informing the patient
7 and a designated physician in accordance with the guidelines issued under the
8 Mammography Quality Standards Act, 42 ~~USC~~ U.S.C. 263b, and any regulations
9 promulgated pursuant thereto, including 21 CFR 900.1 et seq.

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

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

14 Section 3. The Louisiana State Law Institute is hereby authorized to redesignate the
15 number of any Section of statute enacted by this Act in a manner that comports with the
16 technical recodification provisions of House Concurrent Resolution No. 84 of this 2015
17 Regular Session of the Legislature.

18 Section 4. This Act shall become effective on January 1, 2016.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____