

MAMMOGRAPHY AMENDMENTS

House Bill 4529 (Substitute H-1)
First Analysis (7-22-93)

Sponsor: Rep. Maxine Berman
Committee: Public Health

THE APPARENT PROBLEM:

Reportedly, when the regulation of mammography services was enacted through Public Act 56 of 1989, the fees set in the act for review of radiation machines by the Department of Public Health were deliberately set below those of the American College of Radiology, the major national private professional accreditation organization for radiation machines, operators, supervisors, and interpreters. This was done to encourage mammography facilities to be reviewed by this private professional organization rather than the DPH, thereby saving the state revenues. However, since enactment of the state mammography regulation, the ACR has raised its fees higher than those in the Public Health Code. Apparently the attorney general has said that the fees in the health code cannot be raised without enabling legislation, so legislation has been introduced that would continue to encourage review by the ACR rather than the DPH, and to address a number of other, technical issues.

THE CONTENT OF THE BILL:

The bill would amend the part of the Public Health Code that regulates mammography programs to do the following:

- * require that facilities operating mammography machines designate a physician (either an MD or a DO) who specializes in radiology to supervise the delivery of mammography services;
- * require that mammography results be interpreted by people with specialized training in mammography;
- * require that not only radiation machines but the facilities in which the machines were used meet American College of Radiology (ACR) accreditation requirements;

- * increase from six to twelve months the length of a temporary authorization for radiation machines used for mammography;

- * raise the fees for department evaluations of radiation machines and add a re-evaluation fee.

Supervision of mammography programs. Currently, the health code requires that facilities using mammography machines have annual on-site consultations with qualified radiation physicists to ensure compliance with the code and to keep consultation records for at least seven years. In addition, the bill would require facilities using mammography machines to designate a physician (either an MD or a DO) to direct the delivery of mammography services and be responsible for the clinical aspects of procedures related to mammography (including the X-ray examinations themselves).

This supervisory physician would have to:

- (a) specialize in radiology (or diagnostic radiology);
- (b) be certified by an approved professional radiology organization (including, but not limited to, the American Board of Radiology or the American Osteopathic Board of Radiology);
- (c) give the Department of Public Health (DPH) satisfactory documentation showing, when he or she was initially designated to supervise the facility's mammography services, that he or she had successfully either:
 - * completed or taught at least 40 hours of continuing medical education in the technical or clinical aspects (or both) of mammography ("or related subjects") in courses approved by his or her licensing board; or
 - * completed at least 40 hours of training in the technical or clinical aspects (or both) of mammography (which training could be through a

residency program or in the course of attaining the required certification);

(d) successfully complete or teach at least 15 hours of continuing medical education, every three years after the bill took effect, in the technical or clinical aspects of mammography or related subjects in board-approved courses or programs; and

(e) satisfactorily document the continuing education or teaching.

Mammography interpreters. Mammography results would have to be interpreted by someone who (a) successfully completed or taught, and satisfactorily documented, at least 15 hours of continuing medical education credits every three years after the bill took effect; (b) interpreted at least 520 mammographic examinations each year; and (c) kept annual records that correlated positive mammograms to biopsies done and the number of cancers detected. In addition, a mammography interpreter also would have to either (a) be a professionally certified licensed physician who specialized in radiology or diagnostic radiology, or (b) had had at least two months of training in the technical or clinical aspects (or both) of mammography or related subjects and satisfactorily documented successful completion of the training (which could include time spent in a residency program that included specific training in mammography).

Mammography authorization. Currently, a mammography authorization is effective for three years. The bill would make mammography authorizations effective for three years only if the radiation machine for which the authorization was issued met one of the following requirements:

- (1) maintained continued accreditation by the American College of Radiology (ACR);
- (2) had an active accreditation application in process with the ACR; or
- (3) maintained approval, or was in the process of obtaining approval, under a DPH process equivalent to ACR accreditation.

Fees. The bill would raise by \$200 the existing fees for DPH compliance evaluations of radiation machines. Currently, the fee for the first radiation machine is \$500, and \$400 for each additional

machine. The bill would raise these fees to \$700 and \$600, respectively. In addition, the bill would add a new \$300 fee for each re-evaluation of a radiation machine ("due to failure during the previous evaluation, relocation of the radiation machine, or similar changes that could affect earlier evaluation results.")

Other provisions. The bill would delete the requirement that mammography machines be used only for ("dedicated to") mammography.

MCL 333.13501 et al.

FISCAL IMPLICATIONS:

According to an analysis by the Department of Public Health, the fee increases could result in increased revenues of up to \$27,000 over three years. The analysis notes that, of the 446 mammography machines currently in operation in Michigan, about 270 are ACR-accredited. For the remaining machines, apparently it is likely that less than half the facilities would choose the state process over ACR accreditation. Under the bill's proposed increase in fees, revenues to the department would amount to an additional \$200 per machine if a facility chose not to become ACR-accredited or failed in its attempt to become ACR-accredited. A new \$300 fee, which reportedly equals that of the ACR, is also being proposed to cover the costs of any re-evaluations which might be necessary. The department estimates that about one third of the machines not accredited by the ACR might need re-evaluation during the three-year term of mammography authorization. (5-7-93)

ARGUMENTS:

For:

Reportedly, when the original mammography regulation legislation was enacted, the fees were deliberately set to be higher than those charged by the American College of Radiology (ACR) in order to encourage facilities to seek accreditation from the ACR instead of through the Department of Public Health. However, apparently the ACR has since raised its fees to levels higher than those in the act, which would raise costs to the state by encouraging at least some facilities to choose to be reviewed by the DPH rather than by the ACR. Since, reportedly, the attorney general has said that the fees set in the health code can't be raised through the rules process, in order to continue to encourage

mammography facilities to be accredited through a private, professional accreditation body rather than by the DPH -- and thereby reducing state costs -- existing health code fees need to be raised to the level of the current fee schedule of the ACR.

For:

Although the majority of mammography facilities in Michigan reportedly are ACR-accredited, some nonaccredited facilities may not use qualified radiologists for supervision or interpretation of mammography and mammograms, and, therefore, would not meet national standards. Since the early detection of breast cancer is one of the best ways to combat this potentially devastating disease, it is imperative that the technique of the mammogram operator and the equipment used in taking mammograms be functioning at optimal levels, and that physicians responsible for mammography supervision and interpretation have and maintain qualifications at least as stringent as those of the major professional accreditation organization, the American College of Radiology.

For:

Deleting the requirement that radiation machines used for mammography be used exclusively for mammography would allow these machines to be used for other, appropriate purposes, such as locating foreign bodies in hands or feet. Originally, the requirement was included in the 1989 act regulating mammography because reportedly many radiation machines were being inappropriately used for mammography. However, because radiation machines used for mammography now must meet nationally-recognized standards, this provision is no longer needed to ensure that high quality equipment is used for mammography in Michigan.

POSITIONS:

The Department of Public Health support the bill.
(7-21-93)

The Michigan Hospital Association supports the bill. (7-21-93)