

AMENDED IN SENATE MAY 3, 2011  
AMENDED IN SENATE MARCH 30, 2011

**SENATE BILL**

**No. 173**

---

---

**Introduced by Senator Simitian**  
*(Principal coauthor: Senator Alquist)*

February 7, 2011

---

---

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 relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 173, as amended, Simitian. ~~Health care coverage:~~ *Healing arts:* 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 breast cancer screening under specified circumstances.~~ The bill would require a health care practitioner who performs a

mammography examination under those provisions to include in the mammography report *specified* information *and, when applicable, a specified notice* 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-no~~.  
State-mandated local program: ~~yes-no~~.

*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.

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

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

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

23    ~~(b) Nothing in this section shall be construed to prevent~~  
24    ~~application of copayment or deductible provisions in a plan, nor~~  
25    ~~shall this section be construed to require that a plan be extended~~  
26    ~~to cover any other procedures under an individual or a group health~~  
27    ~~care service plan contract. Nothing in this section shall be construed~~  
28    ~~to authorize a plan enrollee to receive the services required to be~~  
29    ~~covered by this section if those services are furnished by a~~  
30    ~~nonparticipating provider, unless the plan enrollee is referred to~~  
31    ~~that provider by a participating physician and surgeon, nurse~~  
32    ~~practitioner, or certified nurse midwife providing care.~~

33    ~~SEC. 3. Section 10123.81 of the Insurance Code is amended~~  
34    ~~to read:~~

35    ~~10123.81. (a) On or after January 1, 2000, every individual~~  
36    ~~or group policy of disability insurance or self-insured employee~~  
37    ~~welfare benefit plan that is issued, amended, or renewed, shall be~~  
38    ~~deemed to provide coverage for at least the following, upon the~~  
39    ~~referral of a nurse practitioner, certified nurse midwife, or physician~~  
40    ~~and surgeon, providing care to the patient and operating within~~

1 the scope of practice provided under existing law for breast cancer  
2 screening or diagnostic purposes:

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

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

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

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

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

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

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

1 ~~the meaning of Section 6 of Article XIII B of the California~~  
2 ~~Constitution.~~

O