

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO BREAST CANCER SCREENING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature is committed to ensuring that  
2 all women have ready access to breast cancer screening,  
3 regardless of age and ethnicity, provided such screenings are  
4 requested by state licensed and authorized medical  
5 practitioners.

6           The legislature has serious reservations about the  
7 implementation of United States preventive services task force  
8 (USPSTF) guidelines with respect to breast cancer screening. In  
9 2009 and 2016, the USPSTF released recommendations that were a  
10 significant departure from screening guidelines issued by  
11 leading clinical organizations such as the American College of  
12 Radiology, the National Comprehensive Cancer Network, and the  
13 American Medical Association. If the USPSTF guidelines were  
14 implemented, insurance plans would no longer be required to  
15 cover annual mammography without cost sharing for millions of  
16 women ages forty to forty-nine.



1           The legislature recognizes that the federal government has  
2 delayed implementation of USPSTF guidelines via legislation,  
3 most recently with the Protecting Access to Lifesaving Screening  
4 Act of 2019, that is scheduled to expire December 31, 2020.

5           The legislature finds that there is ample data showing that  
6 annual mammographic screenings significantly reduces breast  
7 cancer deaths and morbidity and that effective screening  
8 programs are in the best interest of the State and its people.  
9 The legislature further recognizes that certain ethnic groups  
10 suffer a disproportionately higher rate of breast cancer  
11 diagnoses before age fifty. The legislature is concerned that  
12 minority women would also be disproportionately and adversely  
13 impacted by USPSTF guidelines limiting their access to life  
14 saving screening.

15           The purpose of this Act is to improve breast cancer  
16 detection rates in the State by:

- 17           (1) Increasing the categories of women required to be  
18 covered for mammogram screenings;
- 19           (2) Requiring the existing health insurance mandate for  
20 coverage of low-dose mammography to include digital  
21 mammography and breast tomosynthesis;



- 1 (3) Defining "digital breast tomosynthesis"; and
- 2 (4) Requiring health care providers to be reimbursed at
- 3 rates accurately reflecting the resource costs
- 4 specific to each service, including any increased
- 5 resource cost after January 1, 2021.

6 SECTION 2. Section 431:10A-116, Hawaii Revised Statutes,  
7 is amended to read as follows:

8 **"§431:10A-116 Coverage for specific services.** Every  
9 person insured under a policy of accident and health or sickness  
10 insurance delivered or issued for delivery in this State shall  
11 be entitled to the reimbursements and coverages specified below:

- 12 (1) Notwithstanding any provision to the contrary,
- 13 whenever a policy, contract, plan, or agreement
- 14 provides for reimbursement for any visual or
- 15 optometric service, [~~which~~] that is within the lawful
- 16 scope of practice of a duly licensed optometrist, the
- 17 person entitled to benefits or the person performing
- 18 the services shall be entitled to reimbursement
- 19 whether the service is performed by a licensed
- 20 physician or by a licensed optometrist. Visual or
- 21 optometric services shall include eye or visual



1 examination, or both, or a correction of any visual or  
2 muscular anomaly, and the supplying of ophthalmic  
3 materials, lenses, contact lenses, spectacles,  
4 eyeglasses, and appurtenances thereto;

5 (2) Notwithstanding any provision to the contrary, for all  
6 policies, contracts, plans, or agreements issued on or  
7 after May 30, 1974, whenever provision is made for  
8 reimbursement or indemnity for any service related to  
9 surgical or emergency procedures, [~~which~~] that is  
10 within the lawful scope of practice of any  
11 practitioner licensed to practice medicine in this  
12 State, reimbursement or indemnification under the  
13 policy, contract, plan, or agreement shall not be  
14 denied when the services are performed by a dentist  
15 acting within the lawful scope of the dentist's  
16 license;

17 (3) Notwithstanding any provision to the contrary,  
18 whenever the policy provides reimbursement or payment  
19 for any service, [~~which~~] that is within the lawful  
20 scope of practice of a psychologist licensed in this  
21 State, the person entitled to benefits or performing



1 the service shall be entitled to reimbursement or  
2 payment, whether the service is performed by a  
3 licensed physician or licensed psychologist;

4 (4) Notwithstanding any provision to the contrary, each  
5 policy, contract, plan, or agreement issued on or  
6 after February 1, 1991, except for policies that only  
7 provide coverage for specified diseases or other  
8 limited benefit coverage, but including policies  
9 issued by companies subject to chapter 431, article  
10 10A, part II and chapter 432, article 1 shall provide  
11 coverage for screening by low-dose mammography for  
12 occult breast cancer as follows:

13 (A) For women age thirty-five to thirty-nine,  
14 inclusive, an annual baseline mammogram;

15 (B) For women forty years of age and older, an annual  
16 mammogram; [and]

17 (C) For women over age thirty, deemed by a licensed  
18 physician or clinician to have an above-average  
19 risk for breast cancer, an annual mammogram;

20 [+B)] (D) For [~~a woman~~] women of any age with a  
21 history of breast cancer or whose mother or



1           sister has had a history of breast cancer, a  
2           mammogram upon the recommendation of the woman's  
3           physician[-]; and

4           (E) For women of any age, any additional or  
5           supplemental imaging, such as breast magnetic  
6           resonance imaging or ultrasound, deemed medically  
7           necessary by an applicable American College of  
8           Radiology guideline.

9           The services provided in this paragraph are  
10          subject to any coinsurance provisions that may be in  
11          force in these policies, contracts, plans, or  
12          agreements[-], and shall be at least as favorable and  
13          subject to the same dollar limits, deductibles, and  
14          co-payments as other radiological examinations;  
15          provided, however, that on and after January 1, 2021  
16          providers of health care services specified under this  
17          section shall be reimbursed at rates accurately  
18          reflecting the resource costs specific to each  
19          modality, including any increased resource cost.

20                 For the purpose of this paragraph, the term "low-  
21          dose mammography" means the x-ray examination of the



1 breast using equipment dedicated specifically for  
2 mammography, including but not limited to the x-ray  
3 tube, filter, compression device, screens, films, and  
4 cassettes, with an average radiation exposure delivery  
5 of less than one rad mid-breast, with two views for  
6 each breast[-], and includes both digital mammography  
7 and digital breast tomosynthesis, and interpreting and  
8 rendering a report by a radiologist or other physician  
9 based on the screening. For the purposes of this  
10 paragraph, the term "digital breast tomosynthesis"  
11 means a radiologic procedure that allows a volumetric  
12 reconstruction of the whole breast from a finite  
13 number of low-dose two-dimensional projections  
14 obtained by different x-ray tube angles, creating a  
15 series of images forming a three dimensional  
16 representation of the breast. An insurer may provide  
17 the services required by this paragraph through  
18 contracts with providers; provided that the contract  
19 is determined to be a cost-effective means of  
20 delivering the services without sacrifice of quality  
21 and meets the approval of the director of health; and



1           (5)   (A)   (i)   Notwithstanding any provision to the  
2                                   contrary, whenever a policy, contract, plan,  
3                                   or agreement provides coverage for the  
4                                   children of the insured, that coverage shall  
5                                   also extend to the date of birth of any  
6                                   newborn child to be adopted by the insured;  
7                                   provided that the insured gives written  
8                                   notice to the insurer of the insured's  
9                                   intent to adopt the child prior to the  
10                                  child's date of birth or within thirty days  
11                                  after the child's birth or within the time  
12                                  period required for enrollment of a natural  
13                                  born child under the policy, contract, plan,  
14                                  or agreement of the insured, whichever  
15                                  period is longer; provided further that if  
16                                  the adoption proceedings are not successful,  
17                                  the insured shall reimburse the insurer for  
18                                  any expenses paid for the child; and  
19                                  (ii)   Where notification has not been received by  
20                                  the insurer prior to the child's birth or  
21                                  within the specified period following the





1 child's birth, insurance coverage shall be  
2 effective from the first day following the  
3 insurer's receipt of legal notification of  
4 the insured's ability to consent for  
5 treatment of the infant for whom coverage is  
6 sought; and

7 (B) When the insured is a member of a health  
8 maintenance organization, coverage of an adopted  
9 newborn is effective:

10 (i) From the date of birth of the adopted  
11 newborn when the newborn is treated from  
12 birth pursuant to a provider contract with  
13 the health maintenance organization, and  
14 written notice of enrollment in accord with  
15 the health maintenance organization's usual  
16 enrollment process is provided within thirty  
17 days of the date the insured notifies the  
18 health maintenance organization of the  
19 insured's intent to adopt the infant for  
20 whom coverage is sought; or



1           (ii) From the first day following receipt by the  
2           health maintenance organization of written  
3           notice of the insured's ability to consent  
4           for treatment of the infant for whom  
5           coverage is sought and enrollment of the  
6           adopted newborn in accord with the health  
7           maintenance organization's usual enrollment  
8           process if the newborn has been treated from  
9           birth by a provider not contracting or  
10          affiliated with the health maintenance  
11          organization."

12          SECTION 3. Section 432:1-605, Hawaii Revised Statutes, is  
13          amended by amending subsection (c) to read as follows:

14          "(c) For purposes of this section[, ~~"low-dose~~  
15          ~~mammography"~~]:

16          "Digital breast tomosynthesis" means a radiologic procedure  
17          that allows a volumetric reconstruction of the whole breast from  
18          a finite number of low-dose two-dimensional projections obtained  
19          by different x-ray tube angles, creating a series of images  
20          forming a three dimensional representation of the breast.



1        "Low-dose mammography" means the x-ray examination of the  
2 breast using equipment dedicated specifically for mammography,  
3 including but not limited to the x-ray tube, filter, compression  
4 device, screens, films, and cassettes, with an average radiation  
5 exposure delivery of less than one rad mid-breast, with two  
6 views for each breast[-], and includes both digital mammography  
7 and digital breast tomosynthesis, and interpreting and rendering  
8 a report by a radiologist or other physician based on the  
9 screening."

10        SECTION 4. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12        SECTION 5. This Act shall take effect on July 1, 2021.

13

INTRODUCED BY: *Randy H. Berk*



# S.B. NO. 827

**Report Title:**

Insurance; Breast Cancer Detection; Covered Service; Digital Mammography; Breast Tomosynthesis

**Description:**

Increases the categories of women required to be covered for mammogram screenings. Requires the existing health insurance mandate for coverage of low-dose mammography to include digital mammography and breast tomosynthesis. Defines digital breast tomosynthesis. Requires health care providers to be reimbursed at rates accurately reflecting the resource costs specific to each service, including any increased resource cost after January 1, 2021.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

