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September 13, 2012

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

Re: Senate Bill 1538 – Dense Breast Tissue Notice

Dear Governor Brown:

This letter is to respectfully request your signature on Senate Bill 1538, which would provide patients with important information about their mammogram results.

Senate Bill 1538 is about a patient's right to know. It takes advantage of existing law and addresses gaps in the current reporting requirements that were intended to make sure the patient is informed.

Federal law requires that a radiologist characterize breast density when performing a mammography examination and report the density to the referring physician. Additionally, federal law requires that a radiologist send a "lay" letter to the patient informing them of the results of the examination.

Senate Bill 1538 simply requires that, for patients with dense breast tissue, an additional two paragraphs be included in the federally required letter that a radiologist must send a patient after performing a mammogram:

“Your mammogram shows that your breast tissue is dense. Dense breast tissue is common and is not abnormal. However, dense breast tissue can make it harder to evaluate the results of your mammogram and may also be associated with an increased risk of breast cancer.

“This information about the results of your mammogram is given to you to raise your awareness and to inform your conversations with your doctor. Together, you can decide which screening options are right for you. A report of your results was sent to your physician.”

These two paragraphs could save thousands of lives.

Here’s the problem given existing practice: Dense breast tissue shows up as white on a mammogram. Cancer shows up as white on a mammogram. The result is that dense tissue significantly obscures cancer detection on a mammogram. It’s like finding a snowflake in a blizzard.

In fact, the National Cancer Institute has said “the main cause of false-negative results [in screening mammograms] is high breast density.” And a 2002 study in the Journal of Radiology concluded that “Mammographic sensitivity for breast cancer declines significantly with increasing breast density...”

A January 2011 study by the Mayo Clinic found that three fourths of cancer is missed in women with high dense breast tissue by mammography alone. A study in the Journal of the National Cancer Institute found the ability of a mammogram to detect cancer in women with dense breasts was 30 percent; i.e., a 70 percent failure rate.

Compounding the problem is the fact that under today’s practice a patient with high breast density is typically told that the results of her mammography are “normal” when the reality is they are inconclusive. The notice currently

provided is at best incomplete, at worst misleading and potentially life threatening.

Patient information is a key to successful health outcomes. The patient is her own best advocate. She cannot be an effective advocate if she is not informed. However, according to a May 2010 national survey conducted by Harris Interactive, 95 percent of women do not know their breast density, and less than one in 10 doctors are informing patients about breast density.

There is strong support and costs savings.

Apart from the two paragraph notice requirement, SB 1538 contains no mandate.

Senate Bill 1538 addresses the same issues as my Senate Bill 791, which you vetoed last year. However, since that time:

- New information has come out on the effect of the notice;
- More states have passed similar laws;
- The national organization representing radiologists, the American College of Radiology, has taken a new position on informing patients, and now recommends that their members provide such notice;
- Amendments have been taken to address duty of care and liability concerns, as well as the potential for any conflict with federal requirements;
- There is no longer any opposition to the bill; and,
- The proposed wording of the two-paragraph notice incorporates the language suggested by your administration verbatim and in its entirety.

Two separate studies on the impacts of the first year of a similar law in Connecticut that went into effect in 2009 each found that early detection of breast cancer in women with dense breasts increased by 100 percent. This equates to a huge cost savings, on the order of \$1 million to \$1.5 million dollars per 1,000 patients screened.

The American College of Radiology has a brochure out suggesting that if a patient has dense breasts she should “talk to your doctor. Together you can decide which screening exams are right for you.” Which raises the obvious

question: How will a patient know she should have that conversation unless she is told she has dense breast tissue? Senate Bill 1538 answers that question.

These two paragraphs are modeled after similar language that is now the law in New York and which was suggested by the American College of Radiology. The precise language of the notice was the product of negotiations with stakeholders and comes at the suggestion of your administration.

The revised language has eliminated opposition, and the bill is now supported by over fifty organizations including the California Radiological Society (the people who actually perform mammograms and send the results to their patients), Planned Parenthood, Susan G. Komen, the Breast Cancer Fund, the National Federation of Independent Business (NFIB), and Small Business California.

Senate Bill 1538 received unanimous support in the Legislature, passing out of the Senate 36-0 and out of the Assembly 74-0. The bill has 101 co-authors.

Once again, to my knowledge **there is no opposition to the bill**. I respectfully request your signature on Senate Bill 1538.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Joseph Simitian". The signature is fluid and cursive, with a long horizontal stroke at the end.

S. Joseph Simitian
State Senator, Eleventh District

Attachment: List of supporters

cc: Nancy McFadden, Executive Secretary
Gareth Elliott, Legislative Affairs Secretary
Lark Park, Deputy Legislative Secretary