

ASSEMBLY BILL

No. 302

Introduced by Assembly Member Bauer-Kahan

January 23, 2025

An act to amend Section 56.10 of the Civil Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 302, as introduced, Bauer-Kahan. Confidentiality of Medical Information Act.

Existing law, the Confidentiality of Medical Information Act, prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information, as defined, regarding a patient of the provider of health care or an enrollee or subscriber of the health care service plan without first obtaining an authorization, except as prescribed. The act punishes a violation of its provisions that results in economic loss or personal injury to a patient as a misdemeanor.

Existing law requires a provider of health care, a health care service plan, or a contractor to disclose medical information when specifically required by law or if the disclosure is compelled by, among other things, a court order or a search warrant lawfully issued to a governmental law enforcement agency.

This bill would instead require a provider of health care, a health care service plan, or a contractor to disclose medical information when specifically required by California law. The bill would revise the disclosure requirement relating to a court order to require disclosure if compelled by a California state court pursuant to an order of that court or a court order from another state based on another state's law so long as that law does not interfere with California law, as specified. The bill

would revise the disclosure requirement relating to a search warrant to require disclosure if compelled by a warrant from another state based on another state's law so long as that law does not interfere with California law. By narrowing the exceptions for disclosing medical information, and thereby expanding the crime of violating the act, this bill would impose a state-mandated local program.

Existing law prohibits a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using medical information for a purpose not necessary to provide health care services to the patient, except to the extent expressly authorized by a patient, enrollee, or subscriber, or if compelled pursuant to the above-described requirements. Existing law prohibits a contractor or corporation and its subsidiaries and affiliates from further disclosing medical information received under these provisions to a person or entity that is not engaged in providing direct health care services to the patient or the patient's provider of health care or health care service plan or insurer or self-insured employer, except to the extent expressly authorized by a patient, enrollee, or subscriber, or if compelled pursuant to the above-described requirements.

This bill would delete the exceptions allowing disclosure pursuant to an express authorization by a patient, enrollee, or subscriber. By expanding prohibitions against disclosing medical information, and thereby expanding the crime of violating the act, this 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 56.10 of the Civil Code is amended to
- 2 read:
- 3 56.10. (a) A provider of health care, health care service plan,
- 4 or contractor shall not disclose medical information regarding a
- 5 patient of the provider of health care or an enrollee or subscriber

1 of a health care service plan without first obtaining an
2 authorization, except as provided in subdivision (b) or (c).

3 (b) A provider of health care, a health care service plan, or a
4 contractor shall disclose medical information if the disclosure is
5 compelled by any of the following:

6 (1) A ~~California state court order~~ *pursuant to an order of that*
7 *court or a court order from another state based on another state's*
8 *law so long as that law does not interfere with California law,*
9 *including, but not limited to, the Reproductive Privacy Act (Article*
10 *2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of*
11 *Division 106 of the Health and Safety Code).*

12 (2) A board, commission, or administrative agency for purposes
13 of adjudication pursuant to its lawful authority.

14 (3) A party to a proceeding before a court or administrative
15 agency pursuant to a subpoena, subpoena duces tecum, notice to
16 appear served pursuant to Section 1987 of the Code of Civil
17 Procedure, or any provision authorizing discovery in a proceeding
18 before a court or administrative agency.

19 (4) A board, commission, or administrative agency pursuant to
20 an investigative subpoena issued under Article 2 (commencing
21 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
22 2 of the Government Code.

23 (5) An arbitrator or arbitration panel, when arbitration is lawfully
24 requested by either party, pursuant to a subpoena duces tecum
25 issued under Section 1282.6 of the Code of Civil Procedure, or
26 another provision authorizing discovery in a proceeding before an
27 arbitrator or arbitration panel.

28 (6) A search warrant lawfully issued to a governmental law
29 enforcement ~~agency~~ *agency, including a warrant from another*
30 *state based on another state's law so long as that law does not*
31 *interfere with California law, including, but not limited to, the*
32 *Reproductive Privacy Act (Article 2.5 (commencing with Section*
33 *123460) of Chapter 2 of Part 2 of Division 106 of the Health and*
34 *Safety Code).*

35 (7) The patient or the patient's representative pursuant to
36 Chapter 1 (commencing with Section 123100) of Part 1 of Division
37 106 of the Health and Safety Code.

38 (8) A medical examiner, forensic pathologist, or coroner, when
39 requested in the course of an investigation by a medical examiner,
40 forensic pathologist, or coroner's office for the purpose of

1 identifying the decedent or locating next of kin, or when
2 investigating deaths that may involve public health concerns, organ
3 or tissue donation, child abuse, elder abuse, suicides, poisonings,
4 accidents, sudden infant deaths, suspicious deaths, unknown deaths,
5 or criminal deaths, or upon notification of, or investigation of,
6 imminent deaths that may involve organ or tissue donation pursuant
7 to Section 7151.15 of the Health and Safety Code, or when
8 otherwise authorized by the decedent's representative. Medical
9 information requested by a medical examiner, forensic pathologist,
10 or coroner under this paragraph shall be limited to information
11 regarding the patient who is the decedent and who is the subject
12 of the investigation or who is the prospective donor and shall be
13 disclosed to a medical examiner, forensic pathologist, or coroner
14 without delay upon request. A medical examiner, forensic
15 pathologist, or coroner shall not disclose the information contained
16 in the medical record obtained pursuant to this paragraph to a third
17 party without a court order or authorization pursuant to paragraph
18 (4) of subdivision (c) of Section 56.11.

19 (9) When otherwise specifically required by *California* law.

20 (c) A provider of health care or a health care service plan may
21 disclose medical information as follows:

22 (1) The information may be disclosed to providers of health
23 care, health care service plans, contractors, or other health care
24 professionals or facilities for purposes of diagnosis or treatment
25 of the patient. This includes, in an emergency situation, the
26 communication of patient information by radio transmission or
27 other means between emergency medical personnel at the scene
28 of an emergency, or in an emergency medical transport vehicle,
29 and emergency medical personnel at a health facility licensed
30 pursuant to Chapter 2 (commencing with Section 1250) of Division
31 2 of the Health and Safety Code.

32 (2) The information may be disclosed to an insurer, employer,
33 health care service plan, hospital service plan, employee benefit
34 plan, governmental authority, contractor, or other person or entity
35 responsible for paying for health care services rendered to the
36 patient, to the extent necessary to allow responsibility for payment
37 to be determined and payment to be made. If (A) the patient is, by
38 reason of a comatose or other disabling medical condition, unable
39 to consent to the disclosure of medical information and (B) no
40 other arrangements have been made to pay for the health care

1 services being rendered to the patient, the information may be
2 disclosed to a governmental authority to the extent necessary to
3 determine the patient's eligibility for, and to obtain, payment under
4 a governmental program for health care services provided to the
5 patient. The information may also be disclosed to another provider
6 of health care or health care service plan as necessary to assist the
7 other provider or health care service plan in obtaining payment
8 for health care services rendered by that provider of health care or
9 health care service plan to the patient.

10 (3) The information may be disclosed to a person or entity that
11 provides billing, claims management, medical data processing, or
12 other administrative services for providers of health care or health
13 care service plans or for any of the persons or entities specified in
14 paragraph (2). However, that disclosed information shall not be
15 further disclosed by the recipient in a way that would violate this
16 part.

17 (4) The information may be disclosed to organized committees
18 and agents of professional societies or of medical staffs of licensed
19 hospitals, licensed health care service plans, professional standards
20 review organizations, independent medical review organizations
21 and their selected reviewers, utilization and quality control peer
22 review organizations as established by Congress in Public Law
23 97-248 in 1982, contractors, or persons or organizations insuring,
24 responsible for, or defending professional liability that a provider
25 may incur, if the committees, agents, health care service plans,
26 organizations, reviewers, contractors, or persons are engaged in
27 reviewing the competence or qualifications of health care
28 professionals or in reviewing health care services with respect to
29 medical necessity, level of care, quality of care, or justification of
30 charges.

31 (5) The information in the possession of a provider of health
32 care or a health care service plan may be reviewed by a private or
33 public body responsible for licensing or accrediting the provider
34 of health care or a health care service plan. However, no
35 patient-identifying medical information may be removed from the
36 premises except as expressly permitted or required elsewhere by
37 law, nor shall that information be further disclosed by the recipient
38 in a way that would violate this part.

39 (6) The information may be disclosed to a medical examiner,
40 forensic pathologist, or county coroner in the course of an

1 investigation by a medical examiner, forensic pathologist, or
2 coroner's office when requested for all purposes not included in
3 paragraph (8) of subdivision (b). A medical examiner, forensic
4 pathologist, or coroner shall not disclose the information contained
5 in the medical record obtained pursuant to this paragraph to a third
6 party without a court order or authorization pursuant to paragraph
7 (4) of subdivision (c) of Section 56.11.

8 (7) The information may be disclosed to public agencies, clinical
9 investigators, including investigators conducting epidemiologic
10 studies, health care research organizations, and accredited public
11 or private nonprofit educational or health care institutions for bona
12 fide research purposes. However, no information so disclosed shall
13 be further disclosed by the recipient in a way that would disclose
14 the identity of a patient or violate this part.

15 (8) A provider of health care or health care service plan that has
16 created medical information as a result of employment-related
17 health care services to an employee conducted at the specific prior
18 written request and expense of the employer may disclose to the
19 employee's employer that part of the information that:

20 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
21 or challenge to which the employer and the employee are parties
22 and in which the patient has placed in issue the patient's medical
23 history, mental or physical condition, or treatment, provided that
24 information may only be used or disclosed in connection with that
25 proceeding.

26 (B) Describes functional limitations of the patient that may
27 entitle the patient to leave from work for medical reasons or limit
28 the patient's fitness to perform the patient's present employment,
29 provided that no statement of medical cause is included in the
30 information disclosed.

31 (9) Unless the provider of health care or a health care service
32 plan is notified in writing of an agreement by the sponsor, insurer,
33 or administrator to the contrary, the information may be disclosed
34 to a sponsor, insurer, or administrator of a group or individual
35 insured or uninsured plan or policy that the patient seeks coverage
36 by or benefits from, if the information was created by the provider
37 of health care or health care service plan as the result of services
38 conducted at the specific prior written request and expense of the
39 sponsor, insurer, or administrator for the purpose of evaluating the
40 application for coverage or benefits.

1 (10) The information may be disclosed to a health care service
2 plan by providers of health care that contract with the health care
3 service plan and may be transferred between providers of health
4 care that contract with the health care service plan, for the purpose
5 of administering the health care service plan. Medical information
6 shall not otherwise be disclosed by a health care service plan except
7 in accordance with this part.

8 (11) This part does not prevent the disclosure by a provider of
9 health care or a health care service plan to an insurance institution,
10 agent, or support organization, subject to Article 6.6 (commencing
11 with Section 791) of Chapter 1 of Part 2 of Division 1 of the
12 Insurance Code, of medical information if the insurance institution,
13 agent, or support organization has complied with all of the
14 requirements for obtaining the information pursuant to Article 6.6
15 (commencing with Section 791) of Chapter 1 of Part 2 of Division
16 1 of the Insurance Code.

17 (12) The information relevant to the patient's condition, care,
18 and treatment provided may be disclosed to a probate court
19 investigator in the course of an investigation required or authorized
20 in a conservatorship proceeding under the
21 Guardianship-Conservatorship Law as defined in Section 1400 of
22 the Probate Code, or to a probate court investigator, probation
23 officer, or domestic relations investigator engaged in determining
24 the need for an initial guardianship or continuation of an existing
25 guardianship.

26 (13) The information may be disclosed to an organ procurement
27 organization or a tissue bank processing the tissue of a decedent
28 for transplantation into the body of another person, but only with
29 respect to the donating decedent, for the purpose of aiding the
30 transplant. For the purpose of this paragraph, "tissue bank" and
31 "tissue" have the same meanings as defined in Section 1635 of the
32 Health and Safety Code.

33 (14) The information may be disclosed when the disclosure is
34 otherwise specifically authorized by law, including, but not limited
35 to, the voluntary reporting, either directly or indirectly, to the
36 federal Food and Drug Administration of adverse events related
37 to drug products or medical device problems, or to disclosures
38 made pursuant to subdivisions (b) and (c) of Section 11167 of the
39 Penal Code by a person making a report pursuant to Sections

1 11165.9 and 11166 of the Penal Code, provided that those
2 disclosures concern a report made by that person.

3 (15) Basic information, including the patient's name, city of
4 residence, age, sex, and general condition, may be disclosed to a
5 state-recognized or federally recognized disaster relief organization
6 for the purpose of responding to disaster welfare inquiries.

7 (16) The information may be disclosed to a third party for
8 purposes of encoding, encrypting, or otherwise anonymizing data.
9 However, no information so disclosed shall be further disclosed
10 by the recipient in a way that would violate this part, including the
11 unauthorized manipulation of coded or encrypted medical
12 information that reveals individually identifiable medical
13 information.

14 (17) For purposes of disease management programs and services
15 as defined in Section 1399.901 of the Health and Safety Code,
16 information may be disclosed as follows: (A) to an entity
17 contracting with a health care service plan or the health care service
18 plan's contractors to monitor or administer care of enrollees for a
19 covered benefit, if the disease management services and care are
20 authorized by a treating physician, or (B) to a disease management
21 organization, as defined in Section 1399.900 of the Health and
22 Safety Code, that complies fully with the physician authorization
23 requirements of Section 1399.902 of the Health and Safety Code,
24 if the health care service plan or its contractor provides or has
25 provided a description of the disease management services to a
26 treating physician or to the health care service plan's or contractor's
27 network of physicians. This paragraph does not require physician
28 authorization for the care or treatment of the adherents of a
29 well-recognized church or religious denomination who depend
30 solely upon prayer or spiritual means for healing in the practice
31 of the religion of that church or denomination.

32 (18) The information may be disclosed, as permitted by state
33 and federal law or regulation, to a local health department for the
34 purpose of preventing or controlling disease, injury, or disability,
35 including, but not limited to, the reporting of disease, injury, vital
36 events, including, but not limited to, birth or death, and the conduct
37 of public health surveillance, public health investigations, and
38 public health interventions, as authorized or required by state or
39 federal law or regulation.

1 (19) The information may be disclosed, consistent with
2 applicable law and standards of ethical conduct, by a
3 psychotherapist, as defined in Section 1010 of the Evidence Code,
4 if the psychotherapist, in good faith, believes the disclosure is
5 necessary to prevent or lessen a serious and imminent threat to the
6 health or safety of a reasonably foreseeable victim or victims, and
7 the disclosure is made to a person or persons reasonably able to
8 prevent or lessen the threat, including the target of the threat.

9 (20) The information may be disclosed as described in Section
10 56.103.

11 (21) (A) The information may be disclosed to an employee
12 welfare benefit plan, as defined under Section 3(1) of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)),
14 which is formed under Section 302(c)(5) of the Taft-Hartley Act
15 (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare
16 benefit plan provides medical care, and may also be disclosed to
17 an entity contracting with the employee welfare benefit plan for
18 billing, claims management, medical data processing, or other
19 administrative services related to the provision of medical care to
20 persons enrolled in the employee welfare benefit plan for health
21 care coverage, if all of the following conditions are met:

22 (i) The disclosure is for the purpose of determining eligibility,
23 coordinating benefits, or allowing the employee welfare benefit
24 plan or the contracting entity to advocate on the behalf of a patient
25 or enrollee with a provider, a health care service plan, or a state
26 or federal regulatory agency.

27 (ii) The request for the information is accompanied by a written
28 authorization for the release of the information submitted in a
29 manner consistent with subdivision (a) and Section 56.11.

30 (iii) The disclosure is authorized by and made in a manner
31 consistent with the federal Health Insurance Portability and
32 Accountability Act of 1996 (Public Law 104-191).

33 (iv) Any information disclosed is not further used or disclosed
34 by the recipient in any way that would directly or indirectly violate
35 this part or the restrictions imposed by Part 164 of Title 45 of the
36 Code of Federal Regulations, including the manipulation of the
37 information in any way that might reveal individually identifiable
38 medical information.

39 (B) For purposes of this paragraph, Section 1374.8 of the Health
40 and Safety Code shall not apply.

(22) Information may be disclosed pursuant to subdivision (a) of Section 15633.5 of the Welfare and Institutions Code by a person required to make a report pursuant to Section 15630 of the Welfare and Institutions Code, provided that the disclosure under subdivision (a) of Section 15633.5 concerns a report made by that person. Covered entities, as they are defined in Section 160.103 of Title 45 of the Code of Federal Regulations, shall comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule pursuant to subsection (c) of Section 164.512 of Title 45 of the Code of Federal Regulations if the disclosure is not for the purpose of public health surveillance, investigation, intervention, or reporting an injury or death.

(23) The information may be disclosed to a school-linked services coordinator pursuant to a written authorization between the health provider and the patient or client that complies with the federal Health Insurance Portability and Accountability Act of 1996.

(24) Mental health records, as defined in subdivision (c) of Section 5073 of the Penal Code, may be disclosed by a county correctional facility, county medical facility, state correctional facility, or state hospital, as required by Section 5073 of the Penal Code.

~~(d) Except to the extent expressly authorized by a patient, enrollee, or subscriber, or as provided by subdivisions (b) and (c),~~ a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates shall not intentionally share, sell, use for marketing, or otherwise use medical information for a purpose not necessary to provide health care services to the patient.

~~(e) Except to the extent expressly authorized by a patient or enrollee or subscriber or as provided by subdivisions (b) and (c),~~ a contractor or corporation and its subsidiaries and affiliates shall not further disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan or insurer or self-insured employer received under this section to a person or entity that is not engaged in providing direct health care services to the patient or the patient's provider of health care or health care service plan or insurer or self-insured employer.

(f) For purposes of this section, the following definitions apply:

(1) “Medical examiner, forensic pathologist, or coroner” means a coroner or deputy coroner, as described in subdivision (c) of Section 830.35 of the Penal Code, or a licensed physician who currently performs official autopsies on behalf of a county coroner’s office or a medical examiner’s office, whether as a government employee or under contract to that office.

(2) “School-linked services coordinator” means an individual located on a school campus or under contract by a county behavioral health provider agency for the treatment and health care operations and referrals of students and their families that holds any of the following:

(A) A services credential with a specialization in pupil personnel services, as described in Section 44266 of the Education Code.

(B) A services credential with a specialization in health authorizing service as a school nurse, as described in Section 44877 of the Education Code.

(C) A license to engage in the practice of marriage and family therapy issued pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(D) A license to engage in the practice of educational psychology issued pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.

(E) A license to engage in the practice of professional clinical counseling issued pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.