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SENATE BILL

No. 81

Introduced by Senator Arreguín

**(Principal coauthor: ~~Senator Menjivar~~) coauthors: Senators
Menjivar and Pérez)**

**(Coauthors: Senators Archuleta, Durazo, Gonzalez, Limón, and
Rubio)**

**(Coauthors: Assembly Members Bonta, ~~Carrillo~~, Caloza, Carrillo,
Ortega, Pellerin, Celeste Rodriguez, and Solache)**

January 17, 2025

An act to amend Sections 56.05 and 56.10 of the Civil Code, and to add Chapter 1.5 (commencing with Section 1249) to Division 2 of the Health and Safety Code, relating to health and care facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 81, as amended, Arreguín. Health and care facilities: information sharing.

(1) The Confidentiality of Medical Information Act (CMIA) prohibits a provider of health care, a health care service plan, a contractor, or a corporation and its subsidiaries and affiliates from intentionally sharing,

selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as provided. The CMIA ~~authorizes~~ *prohibits* a provider of health care, health care service plan, or contractor ~~to disclose from disclosing~~ medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan ~~with without first obtaining~~ authorization from the patient ~~or pursuant to patient, except if the disclosure is compelled by, among other things,~~ a search warrant lawfully issued to a governmental law enforcement ~~agency. agency or a court order.~~ Existing law makes a violation of these provisions that results in economic loss or personal injury to a patient punishable as a misdemeanor.

This bill would revise the definition of “medical information” to include immigration status, including current and prior immigration status, and place of birth, and would define “immigration enforcement” to mean any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration that penalizes a person’s presence in, entry or reentry to, or employment in, the United States. The bill would specify that a provider of health care, health care service plan, or contractor ~~may shall~~ disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber or a health care service plan pursuant to a valid search warrant issued by a judicial officer, including a magistrate, to a governmental law enforcement ~~agency. agency, or pursuant to a court order issued by a court of this state.~~ The bill would also prohibit, except to the extent expressly authorized by a patient, enrollee, or subscriber, or as otherwise permitted or required, a provider of health care, health care service plan, contractor, or corporation and its subsidiaries and affiliates from disclosing medical information for immigration enforcement. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.

(2) Under existing law, the State Department of Public Health is responsible for the licensing and regulation of various facilities and settings that provide health care services, as specified. Existing law makes a willful violation of these provisions a crime.

This bill would require health care provider entities, as defined, to establish or amend procedures for monitoring and receiving visitors to health care provider entities to the extent possible. The bill would require

health care provider entity personnel to immediately notify health care provider entity management, administration, or legal counsel of any request for access to a health care provider entity site or patient for immigration enforcement, and to provide any requests for review of health care provider entity documents, as prescribed. The bill would prohibit, to the extent permitted by state and federal law, a health care provider entity and its personnel from granting access to nonpublic areas of the provider's facilities for immigration enforcement without a valid judicial warrant or court order. The bill would require health care provider entities to inform staff and relevant volunteers on how to respond to requests relating to immigration enforcement that grants access to health care provider entity sites or to patients. The bill would require that health care provider entities comply with these provisions within 45 days from their effective date. By expanding the scope of a crime and increasing duties on local health officials, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 56.05 of the Civil Code is amended to
- 2 read:
- 3 56.05. For purposes of this part:
- 4 (a) "Authorization" means permission granted in accordance
- 5 with Section 56.11 or 56.21 for the disclosure of medical
- 6 information.

1 (b) “Authorized recipient” means a person who is authorized
2 to receive medical information pursuant to Section 56.10 or 56.20.

3 (c) “Confidential communications request” means a request by
4 a subscriber or enrollee that health care service plan
5 communications containing medical information be communicated
6 to them at a specific mail or email address or specific telephone
7 number, as designated by the subscriber or enrollee.

8 (d) “Contractor” means a person or entity that is a medical
9 group, independent practice association, pharmaceutical benefits
10 manager, or a medical service organization and is not a health care
11 service plan or provider of health care. “Contractor” does not
12 include insurance institutions as defined in subdivision (k) of
13 Section 791.02 of the Insurance Code or pharmaceutical benefits
14 managers licensed pursuant to the Knox-Keene Health Care Service
15 Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340)
16 of Division 2 of the Health and Safety Code).

17 (e) “Enrollee” has the same meaning as that term is defined in
18 Section 1345 of the Health and Safety Code.

19 (f) “Expiration date or event” means a specified date or an
20 occurrence relating to the individual to whom the medical
21 information pertains or the purpose of the use or disclosure, after
22 which the provider of health care, health care service plan,
23 pharmaceutical company, or contractor is no longer authorized to
24 disclose the medical information.

25 (g) “Health care service plan” means an entity regulated pursuant
26 to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter
27 2.2 (commencing with Section 1340) of Division 2 of the Health
28 and Safety Code).

29 (h) “Licensed health care professional” means a person licensed
30 or certified pursuant to Division 2 (commencing with Section 500)
31 of the Business and Professions Code, the Osteopathic Initiative
32 Act or the Chiropractic Initiative Act, or Division 2.5 (commencing
33 with Section 1797) of the Health and Safety Code.

34 (i) “Marketing” means to make a communication about a product
35 or service that encourages recipients of the communication to
36 purchase or use the product or service.

37 “Marketing” does not include any of the following:

38 (1) Communications made orally or in writing for which the
39 communicator does not receive direct or indirect remuneration,
40 including, but not limited to, gifts, fees, payments, subsidies, or

1 other economic benefits, from a third party for making the
2 communication.

3 (2) Communications made to current enrollees solely for the
4 purpose of describing a provider's participation in an existing
5 health care provider network or health plan network of a
6 Knox-Keene licensed health plan to which the enrollees already
7 subscribe; communications made to current enrollees solely for
8 the purpose of describing if, and the extent to which, a product or
9 service, or payment for a product or service, is provided by a
10 provider, contractor, or plan or included in a plan of benefits of a
11 Knox-Keene licensed health plan to which the enrollees already
12 subscribe; or communications made to plan enrollees describing
13 the availability of more cost-effective pharmaceuticals.

14 (3) Communications that are tailored to the circumstances of a
15 particular individual to educate or advise the individual about
16 treatment options, and otherwise maintain the individual's
17 adherence to a prescribed course of medical treatment, as provided
18 in Section 1399.901 of the Health and Safety Code, for a chronic
19 and seriously debilitating or life-threatening condition as defined
20 in subdivisions (d) and (e) of Section 1367.21 of the Health and
21 Safety Code, if the health care provider, contractor, or health plan
22 receives direct or indirect remuneration, including, but not limited
23 to, gifts, fees, payments, subsidies, or other economic benefits,
24 from a third party for making the communication, if all of the
25 following apply:

26 (A) The individual receiving the communication is notified in
27 the communication in typeface no smaller than 14-point type of
28 the fact that the provider, contractor, or health plan has been
29 remunerated and the source of the remuneration.

30 (B) The individual is provided the opportunity to opt out of
31 receiving future remunerated communications.

32 (C) The communication contains instructions in typeface no
33 smaller than 14-point type describing how the individual can opt
34 out of receiving further communications by calling a toll-free
35 number of the health care provider, contractor, or health plan
36 making the remunerated communications. Further communication
37 shall not be made to an individual who has opted out after 30
38 calendar days from the date the individual makes the opt-out
39 request.

(j) “Medical information” means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient’s medical history, mental health application information, reproductive or sexual health application information, immigration status, including current and prior immigration status, place of birth, mental or physical condition, or treatment. “Individually identifiable” means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient’s name, address, electronic mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the identity of the individual.

(k) “Mental health application information” means information related to a consumer’s inferred or diagnosed mental health or substance use disorder, as defined in Section 1374.72 of the Health and Safety Code, collected by a mental health digital service.

(l) “Mental health digital service” means a mobile-based application or internet website that collects mental health application information from a consumer, markets itself as facilitating mental health services to a consumer, and uses the information to facilitate mental health services to a consumer.

(m) “Patient” means a natural person, whether or not still living, who received health care services from a provider of health care and to whom medical information pertains.

(n) “Pharmaceutical company” means a company or business, or an agent or representative thereof, that manufactures, sells, or distributes pharmaceuticals, medications, or prescription drugs. “Pharmaceutical company” does not include a pharmaceutical benefits manager, as included in subdivision (c), or a provider of health care.

(o) “Protected individual” means any adult covered by the subscriber’s health care service plan or a minor who can consent to a health care service without the consent of a parent or legal guardian, pursuant to state or federal law. “Protected individual” does not include an individual that lacks the capacity to give informed consent for health care pursuant to Section 813 of the Probate Code.

1 (p) “Provider of health care” means a person licensed or certified
2 pursuant to Division 2 (commencing with Section 500) of the
3 Business and Professions Code; a person licensed pursuant to the
4 Osteopathic Initiative Act or the Chiropractic Initiative Act; a
5 person certified pursuant to Division 2.5 (commencing with Section
6 1797) of the Health and Safety Code; or a clinic, health dispensary,
7 or health facility licensed pursuant to Division 2 (commencing
8 with Section 1200) of the Health and Safety Code. “Provider of
9 health care” does not include insurance institutions as defined in
10 subdivision (k) of Section 791.02 of the Insurance Code.

11 (q) “Reproductive or sexual health application information”
12 means information about a consumer’s reproductive health,
13 menstrual cycle, fertility, pregnancy, pregnancy outcome, plans
14 to conceive, or type of sexual activity collected by a reproductive
15 or sexual health digital service, including, but not limited to,
16 information from which one can infer someone’s pregnancy status,
17 menstrual cycle, fertility, hormone levels, birth control use, sexual
18 activity, or gender identity.

19 (r) “Reproductive or sexual health digital service” means a
20 mobile-based application or internet website that collects
21 reproductive or sexual health application information from a
22 consumer, markets itself as facilitating reproductive or sexual
23 health services to a consumer, and uses the information to facilitate
24 reproductive or sexual health services to a consumer.

25 (s) “Sensitive services” means all health care services related
26 to mental or behavioral health, sexual and reproductive health,
27 sexually transmitted infections, substance use disorder,
28 gender-affirming care, and intimate partner violence, and includes
29 services described in Sections 6924, 6925, 6926, 6927, 6928, 6929,
30 and 6930 of the Family Code, and Sections 121020 and 124260
31 of the Health and Safety Code, obtained by a patient at or above
32 the minimum age specified for consenting to the service specified
33 in the section.

34 (t) “Subscriber” has the same meaning as that term is defined
35 in Section 1345 of the Health and Safety Code.

36 (u) “Immigration enforcement” means any and all efforts to
37 investigate, enforce, or assist in the investigation or enforcement
38 of any federal civil immigration law, and also includes any and all
39 efforts to investigate, enforce, or assist in the investigation or
40 enforcement of any federal criminal immigration law that penalizes

1 a person's presence in, entry or reentry to, or employment in, the
2 United States.

3 SEC. 2. Section 56.10 of the Civil Code is amended to read:

4 56.10. (a) A provider of health care, health care service plan,
5 or contractor shall not disclose medical information regarding a
6 patient of the provider of health care or an enrollee or subscriber
7 of a health care service plan without first obtaining an
8 authorization, except as provided in subdivision (b) or (c).

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

12 (1) (A) ~~A court order.~~ *order issued by a court of this state,*
13 *including, but not limited to, a court order issued by a court of*
14 *this state pursuant to Section 2029.300 of the Code of Civil*
15 *Procedure relating to a foreign subpoena.*

16 (B) *A provider of health care, health care service plan, or*
17 *contractor shall not comply with a court order that constitutes a*
18 *foreign subpoena, absent a court order issued pursuant to Section*
19 *2029.300 of the Code of Civil Procedure.*

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

22 (3) A party to a proceeding before a court or administrative
23 agency pursuant to a subpoena, subpoena duces tecum, notice to
24 appear served pursuant to Section 1987 of the Code of Civil
25 Procedure, or any provision authorizing discovery in a proceeding
26 before a court or administrative agency.

27 (4) A board, commission, or administrative agency pursuant to
28 an investigative subpoena issued under Article 2 (commencing
29 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
30 2 of the Government Code.

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

36 (6) A valid search warrant issued by a judicial officer, including
37 a magistrate, to a governmental law enforcement ~~agency.~~ *agency,*
38 *including a search warrant from another state that is based on*
39 *either of the following and execution of the search warrant would*
40 *not constitute a violation of Section 13778.2 of the Penal Code:*

1 (A) Another state's law, so long as that state's law does not
2 interfere with California law, including, but not limited to, the
3 Reproductive Privacy Act (Article 2.5 (commencing with Section
4 123460) of Chapter 2 of Part 2 of Division 106 of the Health and
5 Safety Code).

6 (B) A foreign penal civil action, as defined in Section 2029.200
7 of the Code of Civil Procedure.

8 (7) The patient or the patient's representative pursuant to
9 Chapter 1 (commencing with Section 123100) of Part 1 of Division
10 106 of the Health and Safety Code.

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

32 (9) When otherwise specifically required by law.

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

35 (1) The information may be disclosed to providers of health
36 care, health care service plans, contractors, or other health care
37 professionals or facilities for purposes of diagnosis or treatment
38 of the patient. This includes, in an emergency situation, the
39 communication of patient information by radio transmission or
40 other means between emergency medical personnel at the scene

1 of an emergency, or in an emergency medical transport vehicle,
2 and emergency medical personnel at a health facility licensed
3 pursuant to Chapter 2 (commencing with Section 1250) of Division
4 2 of the Health and Safety Code.

5 (2) The information may be disclosed to an insurer, employer,
6 health care service plan, hospital service plan, employee benefit
7 plan, governmental authority, contractor, or other person or entity
8 responsible for paying for health care services rendered to the
9 patient, to the extent necessary to allow responsibility for payment
10 to be determined and payment to be made. If (A) the patient is, by
11 reason of a comatose or other disabling medical condition, unable
12 to consent to the disclosure of medical information and (B) no
13 other arrangements have been made to pay for the health care
14 services being rendered to the patient, the information may be
15 disclosed to a governmental authority to the extent necessary to
16 determine the patient's eligibility for, and to obtain, payment under
17 a governmental program for health care services provided to the
18 patient. The information may also be disclosed to another provider
19 of health care or health care service plan as necessary to assist the
20 other provider or health care service plan in obtaining payment
21 for health care services rendered by that provider of health care or
22 health care service plan to the patient.

23 (3) The information may be disclosed to a person or entity that
24 provides billing, claims management, medical data processing, or
25 other administrative services for providers of health care or health
26 care service plans or for any of the persons or entities specified in
27 paragraph (2). However, that disclosed information shall not be
28 further disclosed by the recipient in a way that would violate this
29 part.

30 (4) The information may be disclosed to organized committees
31 and agents of professional societies or of medical staffs of licensed
32 hospitals, licensed health care service plans, professional standards
33 review organizations, independent medical review organizations
34 and their selected reviewers, utilization and quality control peer
35 review organizations as established by Congress in Public Law
36 97-248 in 1982, contractors, or persons or organizations insuring,
37 responsible for, or defending professional liability that a provider
38 may incur, if the committees, agents, health care service plans,
39 organizations, reviewers, contractors, or persons are engaged in
40 reviewing the competence or qualifications of health care

professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

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

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

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

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

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

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit

1 the patient's fitness to perform the patient's present employment,
2 provided that no statement of medical cause is included in the
3 information disclosed.

4 (9) Unless the provider of health care or a health care service
5 plan is notified in writing of an agreement by the sponsor, insurer,
6 or administrator to the contrary, the information may be disclosed
7 to a sponsor, insurer, or administrator of a group or individual
8 insured or uninsured plan or policy that the patient seeks coverage
9 by or benefits from, if the information was created by the provider
10 of health care or health care service plan as the result of services
11 conducted at the specific prior written request and expense of the
12 sponsor, insurer, or administrator for the purpose of evaluating the
13 application for coverage or benefits.

14 (10) The information may be disclosed to a health care service
15 plan by providers of health care that contract with the health care
16 service plan and may be transferred between providers of health
17 care that contract with the health care service plan, for the purpose
18 of administering the health care service plan. Medical information
19 shall not otherwise be disclosed by a health care service plan except
20 in accordance with this part.

21 (11) This part does not prevent the disclosure by a provider of
22 health care or a health care service plan to an insurance institution,
23 agent, or support organization, subject to Article 6.6 (commencing
24 with Section 791) of Chapter 1 of Part 2 of Division 1 of the
25 Insurance Code, of medical information if the insurance institution,
26 agent, or support organization has complied with all of the
27 requirements for obtaining the information pursuant to Article 6.6
28 (commencing with Section 791) of Chapter 1 of Part 2 of Division
29 1 of the Insurance Code.

30 (12) The information relevant to the patient's condition, care,
31 and treatment provided may be disclosed to a probate court
32 investigator in the course of an investigation required or authorized
33 in a conservatorship proceeding under the
34 Guardianship-Conservatorship Law as defined in Section 1400 of
35 the Probate Code, or to a probate court investigator, probation
36 officer, or domestic relations investigator engaged in determining
37 the need for an initial guardianship or continuation of an existing
38 guardianship.

39 (13) The information may be disclosed to an organ procurement
40 organization or a tissue bank processing the tissue of a decedent

1 for transplantation into the body of another person, but only with
2 respect to the donating decedent, for the purpose of aiding the
3 transplant. For the purpose of this paragraph, “tissue bank” and
4 “tissue” have the same meanings as defined in Section 1635 of the
5 Health and Safety Code.

6 (14) The information may be disclosed when the disclosure is
7 otherwise specifically authorized by law, including, but not limited
8 to, the voluntary reporting, either directly or indirectly, to the
9 United States Food and Drug Administration of adverse events
10 related to drug products or medical device problems, or to
11 disclosures made pursuant to subdivisions (b) and (c) of Section
12 11167 of the Penal Code by a person making a report pursuant to
13 Sections 11165.9 and 11166 of the Penal Code, provided that those
14 disclosures concern a report made by that person.

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

19 (16) The information may be disclosed to a third party for
20 purposes of encoding, encrypting, or otherwise anonymizing data.
21 However, no information so disclosed shall be further disclosed
22 by the recipient in a way that would violate this part, including the
23 unauthorized manipulation of coded or encrypted medical
24 information that reveals individually identifiable medical
25 information.

26 (17) For purposes of disease management programs and services
27 as defined in Section 1399.901 of the Health and Safety Code,
28 information may be disclosed as follows: (A) to an entity
29 contracting with a health care service plan or the health care service
30 plan’s contractors to monitor or administer care of enrollees for a
31 covered benefit, if the disease management services and care are
32 authorized by a treating physician, or (B) to a disease management
33 organization, as defined in Section 1399.900 of the Health and
34 Safety Code, that complies fully with the physician authorization
35 requirements of Section 1399.902 of the Health and Safety Code,
36 if the health care service plan or its contractor provides or has
37 provided a description of the disease management services to a
38 treating physician or to the health care service plan’s or contractor’s
39 network of physicians. This paragraph does not require physician
40 authorization for the care or treatment of the adherents of a

1 well-recognized church or religious denomination who depend
2 solely upon prayer or spiritual means for healing in the practice
3 of the religion of that church or denomination.

4 (18) The information may be disclosed, as permitted by state
5 and federal law or regulation, to a local health department for the
6 purpose of preventing or controlling disease, injury, or disability,
7 including, but not limited to, the reporting of disease, injury, vital
8 events, including, but not limited to, birth or death, and the conduct
9 of public health surveillance, public health investigations, and
10 public health interventions, as authorized or required by state or
11 federal law or regulation.

12 (19) The information may be disclosed, consistent with
13 applicable law and standards of ethical conduct, by a
14 psychotherapist, as defined in Section 1010 of the Evidence Code,
15 if the psychotherapist, in good faith, believes the disclosure is
16 necessary to prevent or lessen a serious and imminent threat to the
17 health or safety of a reasonably foreseeable victim or victims, and
18 the disclosure is made to a person or persons reasonably able to
19 prevent or lessen the threat, including the target of the threat.

20 (20) The information may be disclosed as described in Section
21 56.103.

22 (21) (A) The information may be disclosed to an employee
23 welfare benefit plan, as defined under Section 3(1) of the Employee
24 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)),
25 which is formed under Section 302(c)(5) of the Taft-Hartley Act
26 (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare
27 benefit plan provides medical care, and may also be disclosed to
28 an entity contracting with the employee welfare benefit plan for
29 billing, claims management, medical data processing, or other
30 administrative services related to the provision of medical care to
31 persons enrolled in the employee welfare benefit plan for health
32 care coverage, if all of the following conditions are met:

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

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

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

4 (iv) Any information disclosed is not further used or disclosed
5 by the recipient in any way that would directly or indirectly violate
6 this part or the restrictions imposed by Part 164 of Title 45 of the
7 Code of Federal Regulations, including the manipulation of the
8 information in any way that might reveal individually identifiable
9 medical information.

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

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

25 (23) The information may be disclosed to a school-linked
26 services coordinator pursuant to a written authorization between
27 the health provider and the patient or client that complies with the
28 federal Health Insurance Portability and Accountability Act of
29 1996.

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

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

1 for a purpose not necessary to provide health care services to the
2 patient.

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

13 (f) Except to the extent expressly authorized by a patient,
14 enrollee, or subscriber, or as required by subdivision (b), or as
15 permitted by subdivision (c), a provider of health care, health care
16 service plan, contractor, or corporation and its subsidiaries and
17 affiliates shall not disclose medical information for immigration
18 enforcement.

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

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

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

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

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

36 (C) A license to engage in the practice of marriage and family
37 therapy issued pursuant to Chapter 13 (commencing with Section
38 4980) of Division 2 of the Business and Professions Code.

39 (D) A license to engage in the practice of educational
40 psychology issued pursuant to Chapter 13.5 (commencing with

1 Section 4989.10) of Division 2 of the Business and Professions
2 Code.

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

7 SEC. 3. Chapter 1.5 (commencing with Section 1249) is added
8 to Division 2 of the Health and Safety Code, to read:

9
10 CHAPTER 1.5. PATIENT ACCESS AND PROTECTION
11

12 1249. (a) A health care provider entity shall, to the extent
13 possible, establish or amend procedures for monitoring and
14 receiving visitors to health care provider entities consistent with
15 this chapter. Health care provider entities are encouraged to post
16 a “notice to authorities” at facility entrances.

17 (b) Health care provider entity personnel shall immediately
18 notify health care provider entity management, administration, or
19 legal counsel of any request for access to a health care provider
20 entity site or patient for immigration enforcement, and to provide
21 any requests for review of health care provider entity documents,
22 including through a lawfully issued subpoena, warrant, or court
23 order. If a request is made to access a health care provider entity
24 site or patient, including to obtain information about a patient or
25 their family, for immigration enforcement, health care provider
26 entity personnel shall direct such request to the designated health
27 care provider entity management, administrator, or legal counsel.

28 1249.1. (a) To enhance privacy available to facility users and
29 promote a safe environment conducive to the facility’s mission
30 and patient care, a health care provider entity shall designate areas
31 where patients are receiving treatment or care, or where a patient
32 is discussing protected health information, as nonpublic. The
33 facility is encouraged to designate these areas through mapping,
34 signage, key entry, policy, or a combination of those.

35 (b) To the extent permitted by state and federal law, a health
36 care provider entity and its personnel shall not grant access to the
37 nonpublic areas of the facility, as described in subdivision (a), for
38 immigration enforcement without a valid judicial warrant or court
39 order.

1 (c) A health care provider entity and its personnel shall, to the
2 extent possible, have the denial of permission for access to
3 nonpublic areas of the facility pursuant to subdivision (b) witnessed
4 and documented by at least one health care provider entity
5 personnel.

6 (d) Health care provider entities shall inform staff and relevant
7 volunteers on how to respond to requests relating to immigration
8 enforcement that grants access to health care provider entity sites
9 or to patients.

10 1249.2. For purposes of this chapter, “health care provider
11 entity” includes all of the following:

12 (a) Health facilities as defined in Section 1250.

13 (b) Clinics as defined in Section 1200 and 1200.1, a clinic
14 licensed pursuant to Section 1204, and a clinic exempt from
15 licensure pursuant to subdivisions (b) and (h) of Section 1206.

16 (c) A physician organization as defined in subdivision (p) of
17 Section 127500.2.

18 (d) Providers as defined in subdivision (q) of Section 127500.2.

19 (e) Integrated health care delivery systems as defined in Section
20 1182.14 of the Labor Code.

21 1249.3. This chapter shall apply to all health care provider
22 entities that meet any of the following criteria:

23 (a) Health care provider entities operated by the state or a
24 political subdivision of the state.

25 (b) Health care provider entities that provide services related to
26 physical or mental health and wellness, education, or access to
27 justice, including the University of California.

28 (c) Health care provider entities that receive state funding.

29 (d) All other health care provider entities.

30 1249.4. For purposes of this chapter, “immigration
31 enforcement” means any and all efforts to investigate, enforce, or
32 assist in the investigation or enforcement of any federal civil
33 immigration law, and also includes any and all efforts to
34 investigate, enforce, or assist in the investigation or enforcement
35 of any federal criminal immigration law that penalizes a person’s
36 presence in, entry or reentry to, or employment in, the United
37 States.

38 1249.5. Health care provider entities shall have 45 days from
39 the effective date of this chapter to comply with the requirements
40 contained herein.

1 1249.6. The provisions of this chapter are severable. If any
2 provision of this chapter or its application is held invalid, that
3 invalidity shall not affect other provisions or applications that can
4 be given effect without the invalid provision or application.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution for certain
7 costs that may be incurred by a local agency or school district
8 because, in that regard, this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty for a crime
10 or infraction, within the meaning of Section 17556 of the
11 Government Code, or changes the definition of a crime within the
12 meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

19 SEC. 5. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the California Constitution and shall
22 go into immediate effect. The facts constituting the necessity are:

23 To ensure that vulnerable families and their children are able to
24 access their medical and health care services and needs without
25 fear of deportation, harassment, or intimidation, it is necessary
26 that this act take effect immediately.