

AMENDED IN SENATE JUNE 18, 2002  
AMENDED IN ASSEMBLY APRIL 17, 2002  
AMENDED IN ASSEMBLY APRIL 10, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2831**

**Introduced by Assembly Member Simitian**

February 25, 2002

---

---

An act to amend Section 123148 of the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2831, as amended, Simitian. Health records: delivery of laboratory test results by Internet posting.

Existing law provides that a health care professional who orders a laboratory test shall provide a patient, upon request, those test results in plain language and in oral or written form.

Existing law permits test results to be delivered in electronic form if requested by the patient and if deemed appropriate by the health care professional who requested the test, ~~except that~~ *subject to specified requirements regarding, among other things, consent of the patient. Under existing law, certain clinical laboratory test results are prohibited from being conveyed to a patient by Internet posting or other electronic means, including test results from Pap smears related to routinely processed tissues.*

This bill would instead provide that ~~specified~~ clinical laboratory test results *related to routinely processed tissues* may not be conveyed to the patient by Internet posting or other electronic means ~~before the results~~

~~have been otherwise communicated to the patient by the treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test if they reveal a malignancy. This bill would also exclude specified direct communications from certain requirements—provide that the requirements described above do not prohibit direct communication by Internet posting or other electronic means to convey clinical laboratory test results by a treating health care professional, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 123148 of the Health and Safety Code  
2 is amended to read:

3 123148. (a) Notwithstanding any other provision of law, a  
4 health care professional at whose request a test is performed shall  
5 provide or arrange for the provision of the results of a clinical  
6 laboratory test to the patient who is the subject of the test if so  
7 requested by the patient, in oral or written form. The results shall  
8 be conveyed in plain language and in oral or written form, except  
9 the results may be conveyed in electronic form if requested by the  
10 patient and if deemed most appropriate by the health care  
11 professional who requested the test.

12 (b) (1) Consent of the patient to receive his or her laboratory  
13 results by Internet posting or other electronic means shall be  
14 obtained in a manner consistent with the requirements of Section  
15 56.10 or 56.11 of the Civil Code. In the event that a health care  
16 professional arranges for the provision of test results by Internet  
17 posting or other electronic manner, the results shall be delivered  
18 to a patient in a reasonable time period, but only after the results  
19 have been reviewed by the health care professional. Access to  
20 clinical laboratory test results shall be restricted by the use of a  
21 secure personal identification number when the results are  
22 delivered to a patient by Internet posting or other electronic  
23 manner.

24 (2) Nothing in paragraph (1) shall ~~apply to~~ *prohibit* direct  
25 communication by Internet posting or the use of other electronic  
26 means to convey clinical laboratory test results by a treating health



1 care professional who ordered the test for his or her patient or by  
2 a health care professional acting on behalf of, or with the  
3 authorization of, the treating health care professional who ordered  
4 the test.

5 (c) When a patient requests to receive his or her laboratory test  
6 results by Internet posting, the health care professional shall advise  
7 the patient of any charges that may be assessed directly to the  
8 patient or insurer for the service and that the patient may call the  
9 health care professional for a more detailed explanation of the  
10 laboratory test results when delivered.

11 (d) The electronic provision of test results under this section  
12 shall be in accordance with any applicable federal law governing  
13 privacy and security of electronic personal health records.  
14 However, any state statute, if enacted, that governs privacy and  
15 security of electronic personal health records, shall apply to test  
16 results under this section and shall prevail over federal law if  
17 federal law permits.

18 (e) The test results to be reported to the patient pursuant to this  
19 section shall be recorded in the patient's medical record, and shall  
20 be reported to the patient within a reasonable time period after the  
21 test results are received at the offices of the health care professional  
22 who requested the test.

23 (f) Notwithstanding subdivisions (a) and (b), none of the  
24 following clinical laboratory test results and any other related  
25 results shall be conveyed to a patient by Internet posting or other  
26 electronic means ~~before the results have been otherwise~~  
27 ~~communicated to the patient by the treating health care~~  
28 ~~professional who ordered the test for his or her patient or by a~~  
29 ~~health care professional acting on behalf of, or with the~~  
30 ~~authorization of, the treating health care professional who ordered~~  
31 ~~the test:~~

- 32 (1) HIV antibody test.  
33 (2) Presence of antigens indicating a hepatitis infection.  
34 (3) Abusing the use of drugs.  
35 (4) Test results related to routinely processed tissues, including  
36 skin biopsies, Pap smear tests, products of conception, and bone  
37 marrow aspirations for morphological evaluation, if they reveal a  
38 malignancy.

39 (g) Patient identifiable test results and health information that  
40 have been provided under this section shall not be used for any



1 commercial purpose without the consent of the patient, obtained  
2 in a manner consistent with the requirements of Section 56.11 of  
3 the Civil Code.

4 (h) Any third party to whom laboratory test results are  
5 disclosed pursuant to this section shall be deemed a provider of  
6 administrative services, as that term is used in paragraph (3) of  
7 subdivision (c) of Section 56.10 of the Civil Code, and shall be  
8 subject to all limitations and penalties applicable to that section.

9 (i) A patient may not be required to pay any cost, or be charged  
10 any fee, for electing to receive his or her laboratory results in any  
11 manner other than by Internet posting or other electronic form.

12 (j) A patient or his or her physician may revoke any consent  
13 provided under this section at any time and without penalty, except  
14 to the extent that action has been taken in reliance on that consent.

