

ASSEMBLY BILL

No. 2253

Introduced by Assembly Member Pan

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2253, as introduced, Pan. Clinical laboratory test results: electronic conveyance.

Existing law authorizes the results of a clinical laboratory test performed at the request of a health care professional to be conveyed to the patient in electronic form if requested by the patient and if deemed most appropriate by the health care professional, except that existing law prohibits the conveyance by Internet posting or other electronic means of test results relating to HIV antibodies, the presence of hepatitis antigens, and the abuse of drugs, and specified test results that reveal a malignancy.

This bill would authorize the conveyance by Internet posting or other electronic means of clinical laboratory test results related to HIV antibodies, the presence of hepatitis antigens, and the abuse of drugs, and specified test results that reveal a malignancy if requested by the patient, the means of conveyance is deemed most appropriate by the health care professional, and a health care professional has already discussed the results with the patient.

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 delivered
22 to a patient by Internet posting or other electronic manner.

23 (2) Nothing in paragraph (1) shall prohibit direct communication
24 by Internet posting or the use of other electronic means to convey
25 clinical laboratory test results by a treating health care professional
26 who ordered the test for his or her patient or by a health care
27 professional acting on behalf of, or with the authorization of, the
28 treating health care professional who ordered the test.

29 (c) When a patient requests to receive his or her laboratory test
30 results by Internet posting, the health care professional shall advise
31 the patient of any charges that may be assessed directly to the
32 patient or insurer for the service and that the patient may call the
33 health care professional for a more detailed explanation of the
34 laboratory test results when delivered.

35 (d) The electronic provision of test results under this section
36 shall be in accordance with any applicable federal law governing
37 privacy and security of electronic personal health records.
38 However, any state statute, if enacted, that governs privacy and

1 security of electronic personal health records, shall apply to test
2 results under this section and shall prevail over federal law if
3 federal law permits.

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

9 (f) Notwithstanding ~~subdivisions (a) and (b)~~, *unless*
10 *the patient requests the conveyance, the health care professional*
11 *deems this conveyance as the most appropriate means, and a health*
12 *care professional has first discussed the results with the patient,*
13 none of the following clinical laboratory test results and any other
14 related results shall be conveyed to a patient by Internet posting
15 or other electronic means:

16 (1) HIV antibody test.

17 (2) Presence of antigens indicating a hepatitis infection.

18 (3) Abusing the use of drugs.

19 (4) Test results related to routinely processed tissues, including
20 skin biopsies, Pap smear tests, products of conception, and bone
21 marrow aspirations for morphological evaluation, if they reveal a
22 malignancy.

23 (g) Patient identifiable test results and health information that
24 have been provided under this section shall not be used for any
25 commercial purpose without the consent of the patient, obtained
26 in a manner consistent with the requirements of Section 56.11 of
27 the Civil Code.

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

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

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

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