

AMENDED IN SENATE AUGUST 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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 *revise these provisions to refer to the disclosure of test results and would* authorize the ~~conveyance~~ disclosure 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~~ *disclosed* in plain language and in oral or written
 9 form, except the results may ~~be conveyed~~ *disclosed* in electronic
 10 form if requested by the patient and if deemed most appropriate
 11 by the health care professional who requested the test. *The*
 12 *telephone shall not be considered an electronic form of disclosing*
 13 *laboratory results subject to this limit on electronic disclosure of*
 14 *test results.*
 15 (b) (1) Consent of the patient to receive his or her laboratory
 16 results by Internet posting or other electronic means shall be
 17 obtained in a manner consistent with the requirements of Section
 18 56.10 or 56.11 of the Civil Code. In the event that a health care
 19 professional arranges for the provision of test results by Internet
 20 posting or other electronic manner, the results shall ~~be delivered~~
 21 *disclosed* to a patient in a reasonable time period, but only after
 22 the results have been reviewed by the health care professional.
 23 Access to clinical laboratory test results shall be restricted by the
 24 use of a secure personal identification number when the results
 25 ~~are delivered~~ *disclosed* to a patient by Internet posting or other
 26 electronic manner.
 27 (2) Nothing in paragraph (1) shall prohibit direct communication
 28 by Internet posting or the use of other electronic means ~~to convey~~
 29 *disclose* clinical laboratory test results by a treating health care
 30 professional who ordered the test for his or her patient or by a
 31 health care professional acting on behalf of, or with the
 32 authorization of, the treating health care professional who ordered
 33 the test.
 34 (c) When a patient requests ~~to receive access to~~ his or her
 35 laboratory test results by Internet posting, the health care
 36 professional shall advise the patient of any charges that may be
 37 assessed directly to the patient or insurer for the service and that

1 the patient may call the health care professional for a more detailed
2 explanation of the laboratory test results when delivered.

3 (d) The electronic ~~provision~~ *disclose* of test results under this
4 section shall be in accordance with any applicable federal law
5 governing privacy and security of electronic personal health
6 records. However, any state statute, if enacted, that governs privacy
7 and security of electronic personal health records, shall apply to
8 test results under this section and shall prevail over federal law if
9 federal law permits.

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

15 (f) Notwithstanding subdivision (a), unless the patient requests
16 the ~~conveyance~~ *disclosure*, the health care professional deems this
17 ~~conveyance~~ *disclosure* as ~~the most~~ *an* appropriate means, and a
18 health care professional has first discussed *in person, by telephone,*
19 *or by any other means of oral communication,* the test results with
20 the patient, *in compliance with any other applicable laws,* none
21 of the following clinical laboratory test results and any other related
22 results shall be ~~conveyed~~ *disclosed* to a patient by Internet posting
23 or other electronic means:

- 24 (1) HIV antibody test.
25 (2) Presence of antigens indicating a hepatitis infection.
26 (3) Abusing the use of drugs.
27 (4) Test results related to routinely processed tissues, including
28 skin biopsies, Pap smear tests, products of conception, and bone
29 marrow aspirations for morphological evaluation, if they reveal a
30 malignancy.

31 (g) Patient identifiable test results and health information that
32 have been provided under this section shall not be used for any
33 commercial purpose without the consent of the patient, obtained
34 in a manner consistent with the requirements of Section 56.11 of
35 the Civil Code. *In no event shall patient identifiable HIV-related*
36 *test results and health information disclosed in this section be used*
37 *in violation of subdivision (f) of Section 120980.*

38 (h) Any third party to whom laboratory test results are disclosed
39 pursuant to this section shall be deemed a provider of
40 administrative services, as that term is used in paragraph (3) of

1 subdivision (c) of Section 56.10 of the Civil Code, and shall be
2 subject to all limitations and penalties applicable to that section.

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

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

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