

AMENDED IN SENATE AUGUST 24, 2012

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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, *would provide that the telephone is not a form of electronic communication*, and would authorize the 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 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 disclosed in plain language and in oral or written form, except
9 the results may be disclosed in electronic form if requested by the
10 patient and if deemed most appropriate by the health care
11 professional who requested the test. The telephone shall not be
12 considered an electronic form of disclosing laboratory results
13 subject to ~~this limit~~ *the limits* on electronic disclosure of test results
14 *for the purpose of this section.*

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 disclosed
21 to a patient in a reasonable time period, but only after the results
22 have been reviewed by the health care professional. Access to
23 clinical laboratory test results shall be restricted by the use of a
24 secure personal identification number when the results are disclosed
25 to a patient by Internet posting or other electronic manner.

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

32 (c) When a patient requests access to his or her laboratory test
33 results by Internet posting, the health care professional shall advise

1 the patient of any charges that may be assessed directly to the
2 patient or insurer for the service and that the patient may call the
3 health care professional for a more detailed explanation of the
4 laboratory test results when delivered.

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

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

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

25 (1) HIV antibody test.

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

27 (3) Abusing the use of drugs.

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

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

39 (h) Any third party to whom laboratory test results are disclosed
40 pursuant to this section shall be deemed a provider of

1 administrative services, as that term is used in paragraph (3) of
2 subdivision (c) of Section 56.10 of the Civil Code, and shall be
3 subject to all limitations and penalties applicable to that section.

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

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