

**ASSEMBLY BILL**

**No. 268**

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**Introduced by Assembly Member Holden**

February 7, 2013

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An act to amend Section 123130 of the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 268, as introduced, Holden. Health records: access.

Existing law provides that a patient or his or her representative is entitled to inspect a patient's health records upon presenting a written request and upon payment for reasonable clerical costs incurred in locating and making the records available. Existing law authorizes a health care provider to prepare a summary of the patient's record for inspection and copying by a patient rather than allowing the patient to access the entire record. A willful violation of these provisions by certain health care providers is an infraction.

This bill would, in addition, authorize a health care provider to prepare the summary of the patient's record for inspection and copying by the patient's representative. Because the bill would change the definition of an infraction, it would constitute 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 no reimbursement is required by this act for a specified reason.

Vote: majority. 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 123130 of the Health and Safety Code  
2 is amended to read:

3 123130. (a) A health care provider may prepare a summary  
4 of the record, according to the requirements of this section, for  
5 inspection and copying by a patient *or patient's representative*. If  
6 the health care provider chooses to prepare a summary of the record  
7 rather than allowing access to the entire record, he or she shall  
8 make the summary of the record available to the patient *or patient's*  
9 *representative* within 10 working days from the date of the patient's  
10 *or patient's representative's* request. However, if more time is  
11 needed because the record is of extraordinary length or because  
12 the patient was discharged from a licensed health facility within  
13 the last 10 days, the health care provider shall notify the patient  
14 *or patient's representative* of this fact and the date that the  
15 summary will be completed, but in no case shall more than 30 days  
16 elapse between the request by the patient *or patient's representative*  
17 and the delivery of the summary. In preparing the summary of the  
18 record the health care provider shall not be obligated to include  
19 information that is not contained in the original record.

20 (b) A health care provider may confer with the patient *or*  
21 *patient's representative* in an attempt to clarify the patient's *or*  
22 *patient's representative's* purpose and goal in obtaining ~~his or her~~  
23 *the patient's* record. If as a consequence the patient *or patient's*  
24 *representative* requests information about only certain injuries,  
25 illnesses, or episodes, this subdivision shall not require the provider  
26 to prepare the summary required by this subdivision for other than  
27 the injuries, illnesses, or episodes so requested by the patient *or*  
28 *patient's representative*. The summary shall contain for each injury,  
29 illness, or episode any information included in the record relative  
30 to the following:

- 31 (1) Chief complaint or complaints including pertinent history.
- 32 (2) Findings from consultations and referrals to other health  
33 care providers.
- 34 (3) Diagnosis, where determined.
- 35 (4) Treatment plan and regimen including medications  
36 prescribed.
- 37 (5) Progress of the treatment.

1 (6) Prognosis including significant continuing problems or  
2 conditions.

3 (7) Pertinent reports of diagnostic procedures and tests and all  
4 discharge summaries.

5 (8) Objective findings from the most recent physical  
6 examination, such as blood pressure, weight, and actual values  
7 from routine laboratory tests.

8 (c) This section shall not be construed to require any medical  
9 records to be written or maintained in any manner not otherwise  
10 required by law.

11 (d) The summary shall contain a list of all current medications  
12 prescribed, including dosage, and any sensitivities or allergies to  
13 medications recorded by the provider.

14 (e) Subdivision (c) of Section 123110 shall be applicable  
15 whether or not the health care provider elects to prepare a summary  
16 of the record.

17 (f) The health care provider may charge no more than a  
18 reasonable fee based on actual time and cost for the preparation  
19 of the summary. The cost shall be based on a computation of the  
20 actual time spent preparing the summary for availability to the  
21 patient or the patient's representative. It is the intent of the  
22 Legislature that summaries of the records be made available at the  
23 lowest possible cost to the patient.

24 SEC. 2. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.

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