

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 27, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2119

Introduced by Assembly Member Chu

February 17, 2016

An act to amend Section 56.10 of the Civil Code, and to amend Sections 4514 and 5328.8 of the Welfare and Institutions Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 2119, as amended, Chu. Medical information: disclosure: medical examiners and forensic pathologists.

(1) Existing law, the Confidentiality of Medical Information Act, generally prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization. The act, as exceptions to this prohibition, requires disclosure of medical information by a provider of health care, a health care service plan, or a contractor to a coroner when requested by the coroner in the course of investigation for specified purposes, and authorizes disclosure when requested by the coroner in the course of investigation for any other purpose. Under existing law, medical information obtained in the course of providing certain services to specified persons is confidential and not subject to disclosure under these exceptions.

This bill would subject medical information obtained in the course of providing those services to disclosure under the above-described exceptions, would expand those exceptions to include medical information requested by a medical examiner or forensic pathologist, as specified, and would provide that a medical examiner, forensic pathologist, or coroner, as described, is prohibited from disclosing the ~~underlying information contained in the medical records record~~ obtained pursuant to those exceptions to a 3rd party without a court order or authorization of the beneficiary or personal representative of the deceased patient.

(2) Existing law requires, when a person with a developmental disability dies from any cause, natural or otherwise, while hospitalized in a state developmental center, the State Department of Developmental Services, the physician and surgeon in charge of the client, or the professional in charge of the facility or his or her designee to release information and records to the coroner. Existing law prohibits that department and those persons from releasing any notes, summaries, transcripts, tapes, or records of conversations between the resident and health professional personnel of the hospital relating to the personal life of the resident that is not related to the diagnosis and treatment of the resident's physical condition. Existing law also requires any information released to the coroner pursuant to this provision to remain confidential and to be sealed, and prohibits that information from being made part of the public record. Similar requirements and prohibitions apply to the State Department of State Hospitals, physicians, and professionals with respect to records regarding patients who die while hospitalized in a state mental hospital.

This bill would revise those provisions by deleting the prohibitions against releasing notes, summaries, transcripts, tapes, or records of conversations between the resident or patient and the health professional personnel of the hospital relating to the personal life of the resident or patient that is not related to the diagnosis and treatment of the resident's or patient's physical condition. The bill would instead expand those disclosure requirements to include the release of information and records to the medical examiner, forensic pathologist, or coroner, as specified, upon request. The bill would prohibit the ~~disclosure of the underlying medical records~~ *disclosure, except as specified, of any information contained in the medical record* obtained pursuant to those exceptions to a 3rd party without a court order or authorization of the beneficiary or personal representative of the deceased patient.

The bill would also require a health facility, as defined, a health or behavioral health facility or clinic, and the physician in charge of the patient to release ~~information obtained in the course of providing services relating to community mental health services, voluntary admissions and judicial commitments to mental hospitals, and county psychiatric hospitals~~ *the patient's medical record* to the medical examiner, forensic pathologist, or coroner, as specified, and upon request, when a patient dies from any cause, natural or otherwise. The bill would prohibit a medical examiner, forensic pathologist, or coroner from ~~disclosing the underlying~~ *disclosing, except as specified, any information contained in the medical records record* obtained pursuant to these provisions without a court order or authorization of the beneficiary or personal representative of the deceased patient. By imposing a higher level of service on the counties, the bill would impose a state-mandated local program.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 56.10 of the Civil Code is amended to
2 read:

3 56.10. (a) A provider of health care, health care service plan,
4 or contractor shall not disclose medical information regarding a
5 patient of the provider of health care or an enrollee or subscriber
6 of a health care service plan without first obtaining an
7 authorization, except as provided in subdivision (b) or (c).

1 (b) A provider of health care, a health care service plan, or a
2 contractor shall disclose medical information if the disclosure is
3 compelled by any of the following:

4 (1) By a court pursuant to an order of that court.

5 (2) By a board, commission, or administrative agency for
6 purposes of adjudication pursuant to its lawful authority.

7 (3) By a party to a proceeding before a court or administrative
8 agency pursuant to a subpoena, subpoena duces tecum, notice to
9 appear served pursuant to Section 1987 of the Code of Civil
10 Procedure, or any provision authorizing discovery in a proceeding
11 before a court or administrative agency.

12 (4) By a board, commission, or administrative agency pursuant
13 to an investigative subpoena issued under Article 2 (commencing
14 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
15 2 of the Government Code.

16 (5) By an arbitrator or arbitration panel, when arbitration is
17 lawfully requested by either party, pursuant to a subpoena duces
18 tecum issued under Section 1282.6 of the Code of Civil Procedure,
19 or another provision authorizing discovery in a proceeding before
20 an arbitrator or arbitration panel.

21 (6) By a search warrant lawfully issued to a governmental law
22 enforcement agency.

23 (7) By the patient or the patient's representative pursuant to
24 Chapter 1 (commencing with Section 123100) of Part 1 of Division
25 106 of the Health and Safety Code.

26 (8) By a medical examiner, forensic pathologist, or coroner,
27 when requested in the course of an investigation by the medical
28 examiner, forensic pathologist, or coroner's office for the purpose
29 of identifying the decedent or locating next of kin, or when
30 investigating deaths that may involve public health concerns, organ
31 or tissue donation, child abuse, elder abuse, suicides, poisonings,
32 accidents, sudden infant deaths, suspicious deaths, unknown deaths,
33 or criminal deaths, or upon notification of, or investigation of,
34 imminent deaths that may involve organ or tissue donation pursuant
35 to Section 7151.15 of the Health and Safety Code, or when
36 otherwise authorized by the decedent's representative. Medical
37 information requested by the medical examiner, forensic
38 pathologist, or coroner under this paragraph shall be limited to
39 information regarding the patient who is the decedent and who is
40 the subject of the investigation or who is the prospective donor

1 and shall be disclosed to the medical examiner, forensic
2 pathologist, or coroner without delay upon request. A medical
3 examiner, forensic pathologist, or coroner shall not disclose the
4 ~~underlying medical records~~ *information contained in the medical*
5 *record* obtained pursuant to this paragraph to a third party without
6 a court order or authorization pursuant to paragraph (4) of
7 subdivision (c) of Section 56.11.

8 (9) When otherwise specifically required by law.

9 (c) A provider of health care or a health care service plan may
10 disclose medical information as follows:

11 (1) The information may be disclosed to providers of health
12 care, health care service plans, contractors, or other health care
13 professionals or facilities for purposes of diagnosis or treatment
14 of the patient. This includes, in an emergency situation, the
15 communication of patient information by radio transmission or
16 other means between emergency medical personnel at the scene
17 of an emergency, or in an emergency medical transport vehicle,
18 and emergency medical personnel at a health facility licensed
19 pursuant to Chapter 2 (commencing with Section 1250) of Division
20 2 of the Health and Safety Code.

21 (2) The information may be disclosed to an insurer, employer,
22 health care service plan, hospital service plan, employee benefit
23 plan, governmental authority, contractor, or other person or entity
24 responsible for paying for health care services rendered to the
25 patient, to the extent necessary to allow responsibility for payment
26 to be determined and payment to be made. If (A) the patient is, by
27 reason of a comatose or other disabling medical condition, unable
28 to consent to the disclosure of medical information and (B) no
29 other arrangements have been made to pay for the health care
30 services being rendered to the patient, the information may be
31 disclosed to a governmental authority to the extent necessary to
32 determine the patient's eligibility for, and to obtain, payment under
33 a governmental program for health care services provided to the
34 patient. The information may also be disclosed to another provider
35 of health care or health care service plan as necessary to assist the
36 other provider or health care service plan in obtaining payment
37 for health care services rendered by that provider of health care or
38 health care service plan to the patient.

39 (3) The information may be disclosed to a person or entity that
40 provides billing, claims management, medical data processing, or

1 other administrative services for providers of health care or health
 2 care service plans or for any of the persons or entities specified in
 3 paragraph (2). However, information so disclosed shall not be
 4 further disclosed by the recipient in a way that would violate this
 5 part.

6 (4) The information may be disclosed to organized committees
 7 and agents of professional societies or of medical staffs of licensed
 8 hospitals, licensed health care service plans, professional standards
 9 review organizations, independent medical review organizations
 10 and their selected reviewers, utilization and quality control peer
 11 review organizations as established by Congress in Public Law
 12 97-248 in 1982, contractors, or persons or organizations insuring,
 13 responsible for, or defending professional liability that a provider
 14 may incur, if the committees, agents, health care service plans,
 15 organizations, reviewers, contractors, or persons are engaged in
 16 reviewing the competence or qualifications of health care
 17 professionals or in reviewing health care services with respect to
 18 medical necessity, level of care, quality of care, or justification of
 19 charges.

20 (5) The information in the possession of a provider of health
 21 care or a health care service plan may be reviewed by a private or
 22 public body responsible for licensing or accrediting the provider
 23 of health care or a health care service plan. However, no
 24 patient-identifying medical information may be removed from the
 25 premises except as expressly permitted or required elsewhere by
 26 law, nor shall that information be further disclosed by the recipient
 27 in a way that would violate this part.

28 (6) The information may be disclosed to a medical examiner,
 29 forensic pathologist, or county coroner in the course of an
 30 investigation by the medical examiner, forensic pathologist, or
 31 coroner’s office when requested for all purposes not included in
 32 paragraph (8) of subdivision (b). A medical examiner, forensic
 33 pathologist, or coroner shall not disclose the ~~underlying medical~~
 34 ~~records~~ *information contained in the medical record* obtained
 35 pursuant to this paragraph to a third party without a court order or
 36 authorization pursuant to paragraph (4) of subdivision (c) of
 37 Section 56.11.

38 (7) The information may be disclosed to public agencies, clinical
 39 investigators, including investigators conducting epidemiologic
 40 studies, health care research organizations, and accredited public

1 or private nonprofit educational or health care institutions for bona
2 fide research purposes. However, no information so disclosed shall
3 be further disclosed by the recipient in a way that would disclose
4 the identity of a patient or violate this part.

5 (8) A provider of health care or health care service plan that has
6 created medical information as a result of employment-related
7 health care services to an employee conducted at the specific prior
8 written request and expense of the employer may disclose to the
9 employee's employer that part of the information that:

10 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
11 or challenge to which the employer and the employee are parties
12 and in which the patient has placed in issue his or her medical
13 history, mental or physical condition, or treatment, provided that
14 information may only be used or disclosed in connection with that
15 proceeding.

16 (B) Describes functional limitations of the patient that may
17 entitle the patient to leave from work for medical reasons or limit
18 the patient's fitness to perform his or her present employment,
19 provided that no statement of medical cause is included in the
20 information disclosed.

21 (9) Unless the provider of health care or a health care service
22 plan is notified in writing of an agreement by the sponsor, insurer,
23 or administrator to the contrary, the information may be disclosed
24 to a sponsor, insurer, or administrator of a group or individual
25 insured or uninsured plan or policy that the patient seeks coverage
26 by or benefits from, if the information was created by the provider
27 of health care or health care service plan as the result of services
28 conducted at the specific prior written request and expense of the
29 sponsor, insurer, or administrator for the purpose of evaluating the
30 application for coverage or benefits.

31 (10) The information may be disclosed to a health care service
32 plan by providers of health care that contract with the health care
33 service plan and may be transferred among providers of health
34 care that contract with the health care service plan, for the purpose
35 of administering the health care service plan. Medical information
36 shall not otherwise be disclosed by a health care service plan except
37 in accordance with this part.

38 (11) This part does not prevent the disclosure by a provider of
39 health care or a health care service plan to an insurance institution,
40 agent, or support organization, subject to Article 6.6 (commencing

1 with Section 791) of Chapter 1 of Part 2 of Division 1 of the
 2 Insurance Code, of medical information if the insurance institution,
 3 agent, or support organization has complied with all of the
 4 requirements for obtaining the information pursuant to Article 6.6
 5 (commencing with Section 791) of Chapter 1 of Part 2 of Division
 6 1 of the Insurance Code.

7 (12) The information relevant to the patient’s condition, care,
 8 and treatment provided may be disclosed to a probate court
 9 investigator in the course of an investigation required or authorized
 10 in a conservatorship proceeding under the
 11 Guardianship-Conservatorship Law as defined in Section 1400 of
 12 the Probate Code, or to a probate court investigator, probation
 13 officer, or domestic relations investigator engaged in determining
 14 the need for an initial guardianship or continuation of an existing
 15 guardianship.

16 (13) The information may be disclosed to an organ procurement
 17 organization or a tissue bank processing the tissue of a decedent
 18 for transplantation into the body of another person, but only with
 19 respect to the donating decedent, for the purpose of aiding the
 20 transplant. For the purpose of this paragraph, “tissue bank” and
 21 “tissue” have the same meanings as defined in Section 1635 of the
 22 Health and Safety Code.

23 (14) The information may be disclosed when the disclosure is
 24 otherwise specifically authorized by law, including, but not limited
 25 to, the voluntary reporting, either directly or indirectly, to the
 26 federal Food and Drug Administration of adverse events related
 27 to drug products or medical device problems, or to disclosures
 28 made pursuant to subdivisions (b) and (c) of Section 11167 of the
 29 Penal Code by a person making a report pursuant to Sections
 30 11165.9 and 11166 of the Penal Code, provided that those
 31 disclosures concern a report made by that person.

32 (15) Basic information, including the patient’s name, city of
 33 residence, age, sex, and general condition, may be disclosed to a
 34 state-recognized or federally recognized disaster relief organization
 35 for the purpose of responding to disaster welfare inquiries.

36 (16) The information may be disclosed to a third party for
 37 purposes of encoding, encrypting, or otherwise anonymizing data.
 38 However, no information so disclosed shall be further disclosed
 39 by the recipient in a way that would violate this part, including the
 40 unauthorized manipulation of coded or encrypted medical

1 information that reveals individually identifiable medical
2 information.

3 (17) For purposes of disease management programs and services
4 as defined in Section 1399.901 of the Health and Safety Code,
5 information may be disclosed as follows: (A) to an entity
6 contracting with a health care service plan or the health care service
7 plan's contractors to monitor or administer care of enrollees for a
8 covered benefit, if the disease management services and care are
9 authorized by a treating physician, or (B) to a disease management
10 organization, as defined in Section 1399.900 of the Health and
11 Safety Code, that complies fully with the physician authorization
12 requirements of Section 1399.902 of the Health and Safety Code,
13 if the health care service plan or its contractor provides or has
14 provided a description of the disease management services to a
15 treating physician or to the health care service plan's or contractor's
16 network of physicians. This paragraph does not require physician
17 authorization for the care or treatment of the adherents of a
18 well-recognized church or religious denomination who depend
19 solely upon prayer or spiritual means for healing in the practice
20 of the religion of that church or denomination.

21 (18) The information may be disclosed, as permitted by state
22 and federal law or regulation, to a local health department for the
23 purpose of preventing or controlling disease, injury, or disability,
24 including, but not limited to, the reporting of disease, injury, vital
25 events, including, but not limited to, birth or death, and the conduct
26 of public health surveillance, public health investigations, and
27 public health interventions, as authorized or required by state or
28 federal law or regulation.

29 (19) The information may be disclosed, consistent with
30 applicable law and standards of ethical conduct, by a
31 psychotherapist, as defined in Section 1010 of the Evidence Code,
32 if the psychotherapist, in good faith, believes the disclosure is
33 necessary to prevent or lessen a serious and imminent threat to the
34 health or safety of a reasonably foreseeable victim or victims, and
35 the disclosure is made to a person or persons reasonably able to
36 prevent or lessen the threat, including the target of the threat.

37 (20) The information may be disclosed as described in Section
38 56.103.

39 (21) (A) The information may be disclosed to an employee
40 welfare benefit plan, as defined under Section 3(1) of the Employee

1 Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1002(1)),
2 which is formed under Section 302(c)(5) of the Taft-Hartley Act
3 (29 U.S.C. Sec. 186(c)(5)), to the extent that the employee welfare
4 benefit plan provides medical care, and may also be disclosed to
5 an entity contracting with the employee welfare benefit plan for
6 billing, claims management, medical data processing, or other
7 administrative services related to the provision of medical care to
8 persons enrolled in the employee welfare benefit plan for health
9 care coverage, if all of the following conditions are met:

10 (i) The disclosure is for the purpose of determining eligibility,
11 coordinating benefits, or allowing the employee welfare benefit
12 plan or the contracting entity to advocate on the behalf of a patient
13 or enrollee with a provider, a health care service plan, or a state
14 or federal regulatory agency.

15 (ii) The request for the information is accompanied by a written
16 authorization for the release of the information submitted in a
17 manner consistent with subdivision (a) and Section 56.11.

18 (iii) The disclosure is authorized by and made in a manner
19 consistent with the Health Insurance Portability and Accountability
20 Act of 1996 (Public Law 104-191).

21 (iv) Any information disclosed is not further used or disclosed
22 by the recipient in any way that would directly or indirectly violate
23 this part or the restrictions imposed by Part 164 of Title 45 of the
24 Code of Federal Regulations, including the manipulation of the
25 information in any way that might reveal individually identifiable
26 medical information.

27 (B) For purposes of this paragraph, Section 1374.8 of the Health
28 and Safety Code shall not apply.

29 (22) Information may be disclosed pursuant to subdivision (a)
30 of Section 15633.5 of the Welfare and Institutions Code by a person
31 required to make a report pursuant to Section 15630 of the Welfare
32 and Institutions Code, provided that the disclosure under
33 subdivision (a) of Section 15633.5 concerns a report made by that
34 person. Covered entities, as they are defined in Section 160.103
35 of Title 45 of the Code of Federal Regulations, shall comply with
36 the requirements of the Health Insurance Portability and
37 Accountability Act (HIPAA) privacy rule pursuant to subsection
38 (c) of Section 164.512 of Title 45 of the Code of Federal
39 Regulations if the disclosure is not for the purpose of public health

1 surveillance, investigation, intervention, or reporting an injury or
2 death.

3 (d) Except to the extent expressly authorized by a patient,
4 enrollee, or subscriber, or as provided by subdivisions (b) and (c),
5 a provider of health care, health care service plan, contractor, or
6 corporation and its subsidiaries and affiliates shall not intentionally
7 share, sell, use for marketing, or otherwise use medical information
8 for a purpose not necessary to provide health care services to the
9 patient.

10 (e) Except to the extent expressly authorized by a patient or
11 enrollee or subscriber or as provided by subdivisions (b) and (c),
12 a contractor or corporation and its subsidiaries and affiliates shall
13 not further disclose medical information regarding a patient of the
14 provider of health care or an enrollee or subscriber of a health care
15 service plan or insurer or self-insured employer received under
16 this section to a person or entity that is not engaged in providing
17 direct health care services to the patient or his or her provider of
18 health care or health care service plan or insurer or self-insured
19 employer.

20 (f) For purposes of this section, a reference to a “medical
21 examiner, forensic pathologist, or coroner” means a coroner or
22 deputy coroner as described in subdivision (c) of Section 830.35
23 of the Penal Code, or a licensed physician who currently performs
24 official autopsies on behalf of a county coroner’s office or the
25 medical examiner’s office, whether as a government employee or
26 under contract to that office.

27 SEC. 2. Section 4514 of the Welfare and Institutions Code is
28 amended to read:

29 4514. All information and records obtained in the course of
30 providing intake, assessment, and services under Division 4.1
31 (commencing with Section 4400), Division 4.5 (commencing with
32 Section 4500), Division 6 (commencing with Section 6000), or
33 Division 7 (commencing with Section 7100) to persons with
34 developmental disabilities shall be confidential. Information and
35 records obtained in the course of providing similar services to
36 either voluntary or involuntary recipients prior to 1969 shall also
37 be confidential. Information and records shall be disclosed only
38 in any of the following cases:

39 (a) In communications between qualified professional persons,
40 whether employed by a regional center or state developmental

1 center, or not, in the provision of intake, assessment, and services
 2 or appropriate referrals. The consent of the person with a
 3 developmental disability, or his or her guardian or conservator,
 4 shall be obtained before information or records may be disclosed
 5 by regional center or state developmental center personnel to a
 6 professional not employed by the regional center or state
 7 developmental center, or a program not vendored by a regional
 8 center or state developmental center.

9 (b) When the person with a developmental disability, who has
 10 the capacity to give informed consent, designates individuals to
 11 whom information or records may be released, except that this
 12 chapter shall not be construed to compel a physician and surgeon,
 13 psychologist, social worker, marriage and family therapist,
 14 professional clinical counselor, nurse, attorney, or other
 15 professional to reveal information that has been given to him or
 16 her in confidence by a family member of the person unless a valid
 17 release has been executed by that family member.

18 (c) To the extent necessary for a claim, or for a claim or
 19 application to be made on behalf of a person with a developmental
 20 disability for aid, insurance, government benefit, or medical
 21 assistance to which he or she may be entitled.

22 (d) If the person with a developmental disability is a minor,
 23 dependent ward, or conservatee, and his or her parent, guardian,
 24 conservator, limited conservator with access to confidential records,
 25 or authorized representative, designates, in writing, persons to
 26 whom records or information may be disclosed, except that this
 27 chapter shall not be construed to compel a physician and surgeon,
 28 psychologist, social worker, marriage and family therapist,
 29 professional clinical counselor, nurse, attorney, or other
 30 professional to reveal information that has been given to him or
 31 her in confidence by a family member of the person unless a valid
 32 release has been executed by that family member.

33 (e) For research, if the Director of Developmental Services
 34 designates by regulation rules for the conduct of research and
 35 requires the research to be first reviewed by the appropriate
 36 institutional review board or boards. These rules shall include, but
 37 need not be limited to, the requirement that all researchers shall
 38 sign an oath of confidentiality as follows:

39
 40 “ _____

Date

1
2
3 As a condition of doing research concerning persons with
4 developmental disabilities who have received services from ____
5 (fill in the facility, agency or person), I, _____, agree to obtain the
6 prior informed consent of persons who have received services to
7 the maximum degree possible as determined by the appropriate
8 institutional review board or boards for protection of human
9 subjects reviewing my research, or the person’s parent, guardian,
10 or conservator, and I further agree not to divulge any information
11 obtained in the course of the research to unauthorized persons, and
12 not to publish or otherwise make public any information regarding
13 persons who have received services so those persons who received
14 services are identifiable.

15 I recognize that the unauthorized release of confidential
16 information may make me subject to a civil action under provisions
17 of the Welfare and Institutions Code.

18
19 _____”
20 Signed

- 21
22 (f) To the courts, as necessary to the administration of justice.
23 (g) To governmental law enforcement agencies as needed for
24 the protection of federal and state elective constitutional officers
25 and their families.
26 (h) To the Senate Committee on Rules or the Assembly
27 Committee on Rules for the purposes of legislative investigation
28 authorized by the committee.
29 (i) To the courts and designated parties as part of a regional
30 center report or assessment in compliance with a statutory or
31 regulatory requirement, including, but not limited to, Section
32 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the
33 Penal Code, and Section 6502 of the Welfare and Institutions Code.
34 (j) To the attorney for the person with a developmental disability
35 in any and all proceedings upon presentation of a release of
36 information signed by the person, except that when the person
37 lacks the capacity to give informed consent, the regional center or
38 state developmental center director or designee, upon satisfying
39 himself or herself of the identity of the attorney, and of the fact
40 that the attorney represents the person, shall release all information

1 and records relating to the person except that this article shall not
2 be construed to compel a physician and surgeon, psychologist,
3 social worker, marriage and family therapist, professional clinical
4 counselor, nurse, attorney, or other professional to reveal
5 information that has been given to him or her in confidence by a
6 family member of the person unless a valid release has been
7 executed by that family member.

8 (k) Upon written consent by a person with a developmental
9 disability previously or presently receiving services from a regional
10 center or state developmental center, the director of the regional
11 center or state developmental center, or his or her designee, may
12 release any information, except information that has been given
13 in confidence by members of the family of the person with
14 developmental disabilities, requested by a probation officer charged
15 with the evaluation of the person after his or her conviction of a
16 crime if the regional center or state developmental center director
17 or designee determines that the information is relevant to the
18 evaluation. The consent shall only be operative until sentence is
19 passed on the crime of which the person was convicted. The
20 confidential information released pursuant to this subdivision shall
21 be transmitted to the court separately from the probation report
22 and shall not be placed in the probation report. The confidential
23 information shall remain confidential except for purposes of
24 sentencing. After sentencing, the confidential information shall be
25 sealed.

26 (l) Between persons who are trained and qualified to serve on
27 “multidisciplinary personnel” teams pursuant to subdivision (d)
28 of Section 18951. The information and records sought to be
29 disclosed shall be relevant to the prevention, identification,
30 management, or treatment of an abused child and his or her parents
31 pursuant to Chapter 11 (commencing with Section 18950) of Part
32 6 of Division 9.

33 (m) When a person with a developmental disability dies from
34 any cause, natural or otherwise, while hospitalized in a state
35 developmental center, the State Department of Developmental
36 Services, the physician and surgeon in charge of the client, or the
37 professional in charge of the facility or his or her designee, shall
38 ~~release information and records~~ *the patient’s medical record* to
39 the medical examiner, forensic pathologist, or ~~coroner~~ *coroner*;
40 upon request. ~~A~~ *Except for the purposes included in paragraph*

1 (8) of subdivision (b) of Section 56.10 of the Civil Code, a medical
2 examiner, forensic pathologist, or coroner shall not disclose ~~the~~
3 ~~underlying medical records~~ any information contained in the
4 medical record obtained pursuant to this subdivision without a
5 court order or authorization pursuant to paragraph (4) of
6 subdivision (c) of Section 56.11 of the Civil Code.

7 (n) To authorized licensing personnel who are employed by, or
8 who are authorized representatives of, the State Department of
9 Public Health, and who are licensed or registered health
10 professionals, and to authorized legal staff or special investigators
11 who are peace officers who are employed by, or who are authorized
12 representatives of, the State Department of Social Services, as
13 necessary to the performance of their duties to inspect, license,
14 and investigate health facilities and community care facilities, and
15 to ensure that the standards of care and services provided in these
16 facilities are adequate and appropriate and to ascertain compliance
17 with the rules and regulations to which the facility is subject. The
18 confidential information shall remain confidential except for
19 purposes of inspection, licensing, or investigation pursuant to
20 Chapter 2 (commencing with Section 1250) and Chapter 3
21 (commencing with Section 1500) of Division 2 of the Health and
22 Safety Code, or a criminal, civil, or administrative proceeding in
23 relation thereto. The confidential information may be used by the
24 State Department of Public Health or the State Department of
25 Social Services in a criminal, civil, or administrative proceeding.
26 The confidential information shall be available only to the judge
27 or hearing officer and to the parties to the case. Names that are
28 confidential shall be listed in attachments separate to the general
29 pleadings. The confidential information shall be sealed after the
30 conclusion of the criminal, civil, or administrative hearings, and
31 shall not subsequently be released except in accordance with this
32 subdivision. If the confidential information does not result in a
33 criminal, civil, or administrative proceeding, it shall be sealed after
34 the State Department of Public Health or the State Department of
35 Social Services decides that no further action will be taken in the
36 matter of suspected licensing violations. Except as otherwise
37 provided in this subdivision, confidential information in the
38 possession of the State Department of Public Health or the State
39 Department of Social Services shall not contain the name of the
40 person with a developmental disability.

1 (o) To any board that licenses and certifies professionals in the
2 fields of mental health and developmental disabilities pursuant to
3 state law, when the Director of Developmental Services has
4 reasonable cause to believe that there has occurred a violation of
5 any provision of law subject to the jurisdiction of a board and the
6 records are relevant to the violation. The information shall be
7 sealed after a decision is reached in the matter of the suspected
8 violation, and shall not subsequently be released except in
9 accordance with this subdivision. Confidential information in the
10 possession of the board shall not contain the name of the person
11 with a developmental disability.

12 (p) (1) To governmental law enforcement agencies by the
13 director of a regional center or state developmental center, or his
14 or her designee, when (1) the person with a developmental
15 disability has been reported lost or missing or (2) there is probable
16 cause to believe that a person with a developmental disability has
17 committed, or has been the victim of, murder, manslaughter,
18 mayhem, aggravated mayhem, kidnapping, robbery, carjacking,
19 assault with the intent to commit a felony, arson, extortion, rape,
20 forcible sodomy, forcible oral copulation, assault or battery, or
21 unlawful possession of a weapon, as provided in any provision
22 listed in Section 16590 of the Penal Code.

23 (2) This subdivision shall be limited solely to information
24 directly relating to the factual circumstances of the commission
25 of the enumerated offenses and shall not include any information
26 relating to the mental state of the patient or the circumstances of
27 his or her treatment unless relevant to the crime involved.

28 (3) This subdivision shall not be construed as an exception to,
29 or in any other way affecting, the provisions of Article 7
30 (commencing with Section 1010) of Chapter 4 of Division 8 of
31 the Evidence Code, or Chapter 11 (commencing with Section
32 15600) and Chapter 13 (commencing with Section 15750) of Part
33 3 of Division 9.

34 (q) To the Division of Juvenile Facilities and Department of
35 Corrections and Rehabilitation or any component thereof, as
36 necessary to the administration of justice.

37 (r) To an agency mandated to investigate a report of abuse filed
38 pursuant to either Section 11164 of the Penal Code or Section
39 15630 of the Welfare and Institutions Code for the purposes of

1 either a mandated or voluntary report or when those agencies
2 request information in the course of conducting their investigation.

3 (s) When a person with developmental disabilities, or the parent,
4 guardian, or conservator of a person with developmental disabilities
5 who lacks capacity to consent, fails to grant or deny a request by
6 a regional center or state developmental center to release
7 information or records relating to the person with developmental
8 disabilities within a reasonable period of time, the director of the
9 regional or developmental center, or his or her designee, may
10 release information or records on behalf of that person provided
11 both of the following conditions are met:

12 (1) Release of the information or records is deemed necessary
13 to protect the person's health, safety, or welfare.

14 (2) The person, or the person's parent, guardian, or conservator,
15 has been advised annually in writing of the policy of the regional
16 center or state developmental center for release of confidential
17 client information or records when the person with developmental
18 disabilities, or the person's parent, guardian, or conservator, fails
19 to respond to a request for release of the information or records
20 within a reasonable period of time. A statement of policy contained
21 in the client's individual program plan shall be deemed to comply
22 with the notice requirement of this paragraph.

23 (t) (1) When an employee is served with a notice of adverse
24 action, as defined in Section 19570 of the Government Code, the
25 following information and records may be released:

26 (A) All information and records that the appointing authority
27 relied upon in issuing the notice of adverse action.

28 (B) All other information and records that are relevant to the
29 adverse action, or that would constitute relevant evidence as
30 defined in Section 210 of the Evidence Code.

31 (C) The information described in subparagraphs (A) and (B)
32 may be released only if both of the following conditions are met:

33 (i) The appointing authority has provided written notice to the
34 consumer and the consumer's legal representative or, if the
35 consumer has no legal representative or if the legal representative
36 is a state agency, to the clients' rights advocate, and the consumer,
37 the consumer's legal representative, or the clients' rights advocate
38 has not objected in writing to the appointing authority within five
39 business days of receipt of the notice, or the appointing authority,
40 upon review of the objection has determined that the circumstances

1 on which the adverse action is based are egregious or threaten the
2 health, safety, or life of the consumer or other consumers and
3 without the information the adverse action could not be taken.

4 (ii) The appointing authority, the person against whom the
5 adverse action has been taken, and the person’s representative, if
6 any, have entered into a stipulation that does all of the following:

7 (I) Prohibits the parties from disclosing or using the information
8 or records for any purpose other than the proceedings for which
9 the information or records were requested or provided.

10 (II) Requires the employee and the employee’s legal
11 representative to return to the appointing authority all records
12 provided to them under this subdivision, including, but not limited
13 to, all records and documents or copies thereof that are no longer
14 in the possession of the employee or the employee’s legal
15 representative because they were from any source containing
16 confidential information protected by this section, and all copies
17 of those records and documents, within 10 days of the date that
18 the adverse action becomes final except for the actual records and
19 documents submitted to the administrative tribunal as a component
20 of an appeal from the adverse action.

21 (III) Requires the parties to submit the stipulation to the
22 administrative tribunal with jurisdiction over the adverse action
23 at the earliest possible opportunity.

24 (2) For the purposes of this subdivision, the State Personnel
25 Board may, prior to any appeal from adverse action being filed
26 with it, issue a protective order, upon application by the appointing
27 authority, for the limited purpose of prohibiting the parties from
28 disclosing or using information or records for any purpose other
29 than the proceeding for which the information or records were
30 requested or provided, and to require the employee or the
31 employee’s legal representative to return to the appointing authority
32 all records provided to them under this subdivision, including, but
33 not limited to, all records and documents from any source
34 containing confidential information protected by this section, and
35 all copies of those records and documents, within 10 days of the
36 date that the adverse action becomes final, except for the actual
37 records and documents that are no longer in the possession of the
38 employee or the employee’s legal representatives because they
39 were submitted to the administrative tribunal as a component of
40 an appeal from the adverse action.

1 (3) Individual identifiers, including, but not limited to, names,
2 social security numbers, and hospital numbers, that are not
3 necessary for the prosecution or defense of the adverse action,
4 shall not be disclosed.

5 (4) All records, documents, or other materials containing
6 confidential information protected by this section that have been
7 submitted or otherwise disclosed to the administrative agency or
8 other person as a component of an appeal from an adverse action
9 shall, upon proper motion by the appointing authority to the
10 administrative tribunal, be placed under administrative seal and
11 shall not, thereafter, be subject to disclosure to any person or entity
12 except upon the issuance of an order of a court of competent
13 jurisdiction.

14 (5) For purposes of this subdivision, an adverse action becomes
15 final when the employee fails to answer within the time specified
16 in Section 19575 of the Government Code, or, after filing an
17 answer, withdraws the appeal, or, upon exhaustion of the
18 administrative appeal or of the judicial review remedies as
19 otherwise provided by law.

20 (u) To the person appointed as the developmental services
21 decisionmaker for a minor, dependent, or ward pursuant to Section
22 319, 361, or 726.

23 (v) To a protection and advocacy agency established pursuant
24 to Section 4901, to the extent that the information is incorporated
25 within any of the following:

26 (1) An unredacted facility evaluation report form or an
27 unredacted complaint investigation report form of the State
28 Department of Social Services. This information shall remain
29 confidential and subject to the confidentiality requirements of
30 subdivision (f) of Section 4903.

31 (2) An unredacted citation report, unredacted licensing report,
32 unredacted survey report, unredacted plan of correction, or
33 unredacted statement of deficiency of the State Department of
34 Public Health, prepared by authorized licensing personnel or
35 authorized representatives described in subdivision (n). This
36 information shall remain confidential and subject to the
37 confidentiality requirements of subdivision (f) of Section 4903.

38 (w) When a comprehensive assessment is conducted or updated
39 pursuant to Section 4418.25, 4418.7, or 4648, a regional center is

1 authorized to provide the assessment to the regional center clients’
 2 rights advocate, who provides service pursuant to Section 4433.

3 SEC. 3. Section 5328.8 of the Welfare and Institutions Code
 4 is amended to read:

5 5328.8. (a) The State Department of State Hospitals, the
 6 physician in charge of the patient, or the professional person in
 7 charge of the facility or his or her designee, shall release
 8 ~~information obtained in the course of providing services under~~
 9 ~~Division 5 (commencing with Section 5000), Division 6~~
 10 ~~(commencing with Section 6000), or Division 7 (commencing~~
 11 ~~with Section 7100);~~ *the patient’s medical record* to the medical
 12 examiner, forensic pathologist, or coroner, upon request, when a
 13 patient dies from any cause, natural or otherwise, while hospitalized
 14 in a state mental hospital. ~~A~~ *Except for the purposes included in*
 15 *paragraph (8) of subdivision (b) of Section 56.10 of the Civil Code,*
 16 a medical examiner, forensic pathologist, or coroner shall not
 17 disclose ~~the underlying medical records~~ *any information contained*
 18 *in the medical record* obtained pursuant to this subdivision without
 19 a court order or authorization pursuant to paragraph (4) of
 20 subdivision (c) of Section 56.11 of the Civil Code.

21 (b) A health facility, as defined in Section 1250 of the Health
 22 and Safety Code, a health or behavioral health facility or clinic,
 23 and the physician in charge of the patient shall release ~~information~~
 24 ~~obtained in the course of providing services pursuant to Division~~
 25 ~~5 (commencing with Section 5000), Division 6 (commencing with~~
 26 ~~Section 6000), or Division 7 (commencing with Section 7100);~~
 27 *the patient’s medical record* to the medical examiner, forensic
 28 pathologist, or coroner, upon request, when a patient dies from
 29 any cause, natural or otherwise. ~~A~~ *Except for the purposes included*
 30 *in paragraph (8) of subdivision (b) of Section 56.10 of the Civil*
 31 *Code,* a medical examiner, forensic pathologist, or coroner shall
 32 not disclose ~~the underlying medical records~~ *any information*
 33 *contained in the medical record* obtained pursuant to this
 34 subdivision without a court order or authorization pursuant to
 35 paragraph (4) of subdivision (c) of Section 56.11 of the Civil Code.

36 SEC. 4. The Legislature finds and declares that this act imposes
 37 a limitation on the public’s right of access to the meetings of public
 38 bodies or the writings of public officials and agencies within the
 39 meaning of Section 3 of Article I of the California Constitution.
 40 Pursuant to that constitutional provision, the Legislature makes

1 the following findings to demonstrate the interest protected by this
2 limitation and the need for protecting that interest:

3 The privacy rights of the decedent would be impaired if the
4 records released to a medical examiner, forensic pathologist, or
5 coroner regarding the decedent were released to the public.

6 SEC. 5. If the Commission on State Mandates determines that
7 this act contains costs mandated by the state, reimbursement to
8 local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

O