

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2325

Introduced by Assembly Member Bonilla

February 18, 2016

An act to amend Section 103885 of the Health and Safety Code, relating to cancer.

LEGISLATIVE COUNSEL'S DIGEST

AB 2325, as amended, Bonilla. Ken Maddy California Cancer Registry.

Existing law requires the State Department of Public Health to establish a statewide system for the collection of information determining the incidence of cancer, known as the Ken Maddy California Cancer Registry. Existing law authorizes the department to designate any demographic parts of the state as regional cancer incidence reporting areas and establish regional cancer registries to provide cancer incidence data. Existing law requires any hospital or other facility providing therapy to cancer patients within a cancer reporting area to report each case of cancer to the department or the authorized representative of the department in a format prescribed by the department. Existing law provides that if the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative is authorized to access the information from the hospital or the facility and report it in the appropriate format. In these cases, existing law requires the hospital or other health facility to

reimburse the department or the authorized representative for its cost to access and report the information. Existing law also requires any physician, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients to report each cancer case to the department or the authorized representative of the department, except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

This bill, on or after January 1, 2019, would require a pathologist diagnosing cancer to ~~electronically~~ report cancer diagnoses to the department, as specified: *department either directly from an electronic medical record or using a designated Internet Web portal provided by the department.* If a pathologist fails to report electronically and with an approved format, the bill would authorize the department’s authorized representative to access the information from the pathologist in an appropriate alternative format. In these cases, the bill would require the pathologist to reimburse the department or the authorized representative for its cost to access and report the information. The bill would require the department to prescribe the data required to be included in the reports and to work collaboratively with stakeholders to designate a standardized electronic format for submission of the reports.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 103885 of the Health and Safety Code
 2 is amended to read:
 3 103885. (a) The director shall establish a statewide system for
 4 the collection of information determining the incidence of cancer,
 5 using population-based cancer registries modeled after the Cancer
 6 Surveillance Program of Orange County. As of the effective date
 7 of this ~~section~~ *section*, the director shall begin phasing in the
 8 statewide cancer reporting system. By July 1, 1988, all county or
 9 regional registries shall be implemented or initiated. By July 1,
 10 1990, the statewide cancer reporting system shall be fully
 11 operational. Within 60 days of the effective date of this section,
 12 the director shall submit an implementation and funding schedule
 13 to the Legislature.

1 (b) The department may designate any demographic parts of
2 the state as regional cancer incidence reporting areas and may
3 establish regional cancer registries, with the responsibility and
4 authority to carry out the intent of this section in designated areas.
5 Designated regional registries shall provide, on a timely basis,
6 cancer incidence data as designated by the state department to the
7 department. The department may establish a competitive process
8 to receive applications for, and issue, the award of a contract, grant,
9 or allocation of funds, including, but not limited to, a cooperative
10 agreement, subvention agreement, or any other agreement allowed
11 by law, to an agency, including, but not limited to, a health systems
12 agency, single county health department, multicounty health
13 department grouping, or nonprofit professional association to
14 operate the statewide cancer reporting system and to enter into
15 contracts, or issue grants or funding allocations to other agencies
16 representing a designated cancer reporting region for the purposes
17 of collecting and collating cancer incidence data. The award of
18 these contracts, grants, or funding allocations shall be exempt from
19 Part 2 (commencing with Section 10100) of Division 2 of the
20 Public Contract Code. The department shall include appropriate
21 terms and conditions in a contract, grant, or funding allocation to
22 ensure the proper use of state funds, including provision for
23 reimbursement of allowable costs, financial reporting, program
24 performance reporting, monitoring of subgrants, subcontracts, or
25 suballocations to an agency representing a designated cancer
26 reporting region, retention and access requirements for records,
27 data use and management, independent auditing, termination, and
28 disposition of assets acquired under the contract, grant, or funding
29 allocation.

30 (c) The director shall designate cancer as a disease required to
31 be reported in the state or any demographic parts of the state in
32 which cancer information is collected under this section. All
33 cancers diagnosed or treated in the reporting area shall thereafter
34 be reported to the representative of the department authorized to
35 compile the cancer data, or any individual, agency, or organization
36 designated to cooperate with that representative.

37 (d) (1) Any hospital or other facility providing therapy to cancer
38 patients within an area designated as a cancer reporting area shall
39 report each case of cancer to the department or the authorized
40 representative of the department in a format prescribed by the

1 department. If the hospital or other facility fails to report in a
2 format prescribed by the department, the department's authorized
3 representative may access the information from the hospital or the
4 facility and report it in the appropriate format. In these cases, the
5 hospital or other health facility shall reimburse the state department
6 or the authorized representative for its cost to access and report
7 the information.

8 (2) Any physician and surgeon, dentist, podiatrist, or other health
9 care practitioner diagnosing or providing treatment for cancer
10 patients shall report each cancer case to the department or the
11 authorized representative of the department, except for those cases
12 directly referred to a treatment facility or those previously admitted
13 to a treatment facility for diagnoses or treatment of that instance
14 of cancer.

15 (3) On or after January 1, 2019, a pathologist diagnosing cancer
16 shall ~~electronically~~ report cancer diagnoses to the department
17 utilizing the College of American Pathologists cancer protocols
18 or any other standardized format approved by the department.
19 *Reporting shall be by electronic means, either directly from an*
20 *electronic medical record or using a designated Internet Web*
21 *portal that the department shall provide for pathologists' use.* If
22 a pathologist fails to report electronically and with an approved
23 format, the department's authorized representative may access the
24 information from the pathologist in an appropriate alternative
25 format. In these cases, the pathologist shall reimburse the
26 department or the authorized representative for its cost to access
27 and report the information. A pathologist shall not be responsible
28 for acquiring missing or inaccessible patient demographic
29 information not provided to him or her beyond the content of the
30 required cancer-specific data elements. For purposes of reports
31 submitted pursuant to this paragraph, the department shall prescribe
32 the data required to be included in the ~~report and~~ *report*, work
33 collaboratively with stakeholders to designate a standardized
34 electronic format for ~~submission.~~ *submission, and designate an*
35 *Internet Web portal for electronic submission.*

36 (e) Any hospital or other facility that is required to reimburse
37 the department or its authorized representative for the cost to access
38 and report the information pursuant to subdivision (d) shall provide
39 payment to the department or its authorized representative within
40 60 days of the date this payment is demanded. In the event any

1 hospital or other facility fails to make the payment to the
2 department or its authorized representative within 60 days of the
3 date the payment is demanded, the department or its authorized
4 representative may, at its discretion, assess a late fee not to exceed
5 1 ½ percent per month of the outstanding balance. Further, in the
6 event that the department or its authorized representative takes a
7 legal action to recover its costs and any associated fees, and the
8 department or its authorized representative receives a judgment in
9 its favor, the hospital or other facility shall also reimburse the
10 department or its authorized representative for any additional costs
11 it incurred to pursue the legal action. Late fees and payments made
12 to the department by hospitals or other facilities pursuant to this
13 subdivision shall be considered as reimbursements of the additional
14 costs incurred by the department.

15 (f) All physicians and surgeons, hospitals, outpatient clinics,
16 nursing homes and all other facilities, individuals, or agencies
17 providing diagnostic or treatment services to patients with cancer
18 shall grant to the department or the authorized representative access
19 to all records that would identify cases of cancer or would establish
20 characteristics of the cancer, treatment of the cancer, or medical
21 status of any identified cancer patient. Willful failure to grant
22 access to those records shall be punishable by a fine of up to five
23 hundred dollars (\$500) each day access is refused. Any fines
24 collected pursuant to this subdivision shall be deposited in the
25 General Fund.

26 (g) (1) Except as otherwise provided in this section, all
27 information collected pursuant to this section shall be confidential.
28 For purposes of this section, this information shall be referred to
29 as “confidential information.”

30 (2) The department and any regional cancer registry designated
31 by the department shall use the information to determine the
32 sources of malignant neoplasms and evaluate measures designed
33 to eliminate, alleviate, or ameliorate their effect.

34 (3) Persons with a valid scientific interest who are engaged in
35 demographic, epidemiological, or other similar studies related to
36 health who meet qualifications as determined by the department,
37 and who agree, in writing, to maintain confidentiality, may be
38 authorized access to confidential information.

39 (4) The department and any regional cancer registry designated
40 by the department may enter into agreements to furnish confidential

1 information to other states' cancer registries, federal cancer control
2 agencies, local health officers, or health researchers for the
3 purposes of determining the sources of cancer and evaluating
4 measures designed to eliminate, alleviate, or ameliorate their effect.
5 Before confidential information is disclosed to those agencies,
6 officers, researchers, or out-of-state registries, the requesting entity
7 shall agree in writing to maintain the confidentiality of the
8 information, and in the case of researchers, shall also do both of
9 the following:

10 (A) Obtain approval of their committee for the protection of
11 human subjects established in accordance with Part 46
12 (commencing with Section 46.101) of Title 45 of the Code of
13 Federal Regulations.

14 (B) Provide documentation to the department that demonstrates
15 to the department's satisfaction that the entity has established the
16 procedures and ability to maintain the confidentiality of the
17 information.

18 (5) Notwithstanding any other provision of law, any disclosure
19 authorized by this section shall include only the information
20 necessary for the stated purpose of the requested disclosure, used
21 for the approved purpose, and not be further disclosed.

22 (6) The furnishing of confidential information to the department
23 or its authorized representative in accordance with this section
24 shall not expose any person, agency, or entity furnishing
25 information to liability, and shall not be considered a waiver of
26 any privilege or a violation of a confidential relationship.

27 (7) The department shall maintain an accurate record of all
28 persons who are given access to confidential information. The
29 record shall include: the name of the person authorizing access;
30 name, title, address, and organizational affiliation of persons given
31 access; dates of access; and the specific purpose for which
32 information is to be used. The record of access shall be open to
33 public inspection during normal operating hours of the department.

34 (8) Notwithstanding any other ~~provision of~~ law, no part of the
35 confidential information shall be available for subpoena, nor shall
36 it be disclosed, discoverable, or compelled to be produced in any
37 civil, criminal, administrative, or other proceeding, nor shall this
38 information be deemed admissible as evidence in any civil,
39 criminal, administrative, or other tribunal or court for any reason.

1 (9) Nothing in this subdivision shall prohibit the publication by
2 the department of reports and statistical compilations that do not
3 in any way identify individual cases or individual sources of
4 information.

5 (10) Notwithstanding the restrictions in this subdivision, the
6 individual to whom the information pertains shall have access to
7 his or her own information in accordance with Chapter 1
8 (commencing with Section 1798) of Title 1.8 of the Civil Code.

9 (h) For the purpose of this section, “cancer” means either of the
10 following:

11 (1) All malignant neoplasms, regardless of the tissue of origin,
12 including malignant lymphoma, Hodgkins disease, and leukemia,
13 but excluding basal cell and squamous cell carcinoma of the skin.

14 (2) All primary intracranial and central nervous system (CNS)
15 tumors occurring in the following sites, irrespective of histologic
16 type: brain, meninges, spinal cord, caudae equina, cranial nerves
17 and other parts of the CNS, pituitary gland, pineal gland, and
18 craniopharyngeal duct.

19 (i) Nothing in this section shall preempt the authority of facilities
20 or individuals providing diagnostic or treatment services to patients
21 with cancer to maintain their own facility-based cancer registries.

22 (j) It is the intent of the Legislature that the department, in
23 establishing a system pursuant to this section, maximize the use
24 of available federal funds.