

AMENDED IN SENATE AUGUST 10, 2016

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**

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**Introduced by Assembly Member Bonilla**

February 18, 2016

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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~~ *would, among other things*, require a pathologist diagnosing cancer to report cancer diagnoses to the department *by electronic means, including, but not limited to*, 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, the director shall begin phasing in the statewide  
8 cancer reporting system. By July 1, 1988, all county or regional  
9 registries shall be implemented or initiated. By July 1, 1990, the  
10 statewide cancer reporting system shall be fully operational. Within

1 60 days of the effective date of this section, the director shall  
2 submit an implementation and funding schedule to the Legislature.

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

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

39 (d) (1) Any hospital or other facility providing therapy to cancer  
40 patients within an area designated as a cancer reporting area shall

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

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

17 (3) (A) On or after January 1, 2019, a pathologist diagnosing  
 18 cancer shall report cancer diagnoses to the department utilizing  
 19 the College of American Pathologists cancer protocols or any other  
 20 standardized format approved by the department. ~~Reporting~~

21 (B) *Reporting* shall be by electronic means, *including, but not*  
 22 *limited to*, either directly from an electronic medical record or  
 23 using a designated Internet Web portal that the department shall  
 24 provide for pathologists’ use. If a pathologist fails to report  
 25 electronically and with an approved format, the department’s  
 26 authorized representative may access the information from the  
 27 pathologist in an appropriate alternative format. In these cases, the  
 28 pathologist shall reimburse the department or the authorized  
 29 representative for its cost to access and report the information. ~~A~~

30 (C) A pathologist shall not be responsible for acquiring missing  
 31 or inaccessible patient demographic information not provided to  
 32 him or her beyond the content of the required cancer-specific data  
 33 elements. ~~For~~

34 (D) *For* purposes of reports submitted pursuant to this paragraph,  
 35 the department shall prescribe the data required to be included in  
 36 the report, work collaboratively with stakeholders to designate a  
 37 standardized electronic format for submission, and designate an  
 38 Internet Web portal for electronic submission.

39 (E) *This paragraph shall not be interpreted to require a*  
 40 *pathologist to submit the same pathology report to the department,*

1 *regardless of format, more than once. If a pathology report is*  
2 *submitted by a pathologist electronically, pursuant to this*  
3 *paragraph, the same pathology report is not required to be*  
4 *submitted to the department by any other means.*

5 (e) Any hospital or other facility that is required to reimburse  
6 the department or its authorized representative for the cost to access  
7 and report the information pursuant to subdivision (d) shall provide  
8 payment to the department or its authorized representative within  
9 60 days of the date this payment is demanded. In the event any  
10 hospital or other facility fails to make the payment to the  
11 department or its authorized representative within 60 days of the  
12 date the payment is demanded, the department or its authorized  
13 representative may, at its discretion, assess a late fee not to exceed  
14 1½ percent per month of the outstanding balance. Further, in the  
15 event that the department or its authorized representative takes a  
16 legal action to recover its costs and any associated fees, and the  
17 department or its authorized representative receives a judgment in  
18 its favor, the hospital or other facility shall also reimburse the  
19 department or its authorized representative for any additional costs  
20 it incurred to pursue the legal action. Late fees and payments made  
21 to the department by hospitals or other facilities pursuant to this  
22 subdivision shall be considered as reimbursements of the additional  
23 costs incurred by the department.

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

35 (g) (1) Except as otherwise provided in this section, all  
36 information collected pursuant to this section shall be confidential.  
37 For purposes of this section, this information shall be referred to  
38 as “confidential information.”

39 (2) The department and any regional cancer registry designated  
40 by the department shall use the information to determine the

1 sources of malignant neoplasms and evaluate measures designed  
2 to eliminate, alleviate, or ameliorate their effect.

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

8 (4) The department and any regional cancer registry designated  
9 by the department may enter into agreements to furnish confidential  
10 information to other states' cancer registries, federal cancer control  
11 agencies, local health officers, or health researchers for the  
12 purposes of determining the sources of cancer and evaluating  
13 measures designed to eliminate, alleviate, or ameliorate their effect.  
14 Before confidential information is disclosed to those agencies,  
15 officers, researchers, or out-of-state registries, the requesting entity  
16 shall agree in writing to maintain the confidentiality of the  
17 information, and in the case of researchers, shall also do both of  
18 the following:

19 (A) Obtain approval of their committee for the protection of  
20 human subjects established in accordance with Part 46  
21 (commencing with Section 46.101) of Title 45 of the Code of  
22 Federal Regulations.

23 (B) Provide documentation to the department that demonstrates  
24 to the department's satisfaction that the entity has established the  
25 procedures and ability to maintain the confidentiality of the  
26 information.

27 (5) Notwithstanding any other ~~provision of~~ law, any disclosure  
28 authorized by this section shall include only the information  
29 necessary for the stated purpose of the requested disclosure, used  
30 for the approved purpose, and not be further disclosed.

31 (6) The furnishing of confidential information to the department  
32 or its authorized representative in accordance with this section  
33 shall not expose any person, agency, or entity furnishing  
34 information to liability, and shall not be considered a waiver of  
35 any privilege or a violation of a confidential relationship.

36 (7) The department shall maintain an accurate record of all  
37 persons who are given access to confidential information. The  
38 record shall include: the name of the person authorizing access;  
39 name, title, address, and organizational affiliation of persons given  
40 access; dates of access; and the specific purpose for which

1 information is to be used. The record of access shall be open to  
2 public inspection during normal operating hours of the department.

3 (8) Notwithstanding any other law, no part of the confidential  
4 information shall be available for subpoena, nor shall it be  
5 disclosed, discoverable, or compelled to be produced in any civil,  
6 criminal, administrative, or other proceeding, nor shall this  
7 information be deemed admissible as evidence in any civil,  
8 criminal, administrative, or other tribunal or court for any reason.

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

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

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

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

22 (2) All primary intracranial and central nervous system (CNS)  
23 tumors occurring in the following sites, irrespective of histologic  
24 type: brain, meninges, spinal cord, caudae equina, cranial nerves  
25 and other parts of the CNS, pituitary gland, pineal gland, and  
26 craniopharyngeal duct.

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

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