

AMENDED IN SENATE AUGUST 30, 1999  
AMENDED IN SENATE AUGUST 25, 1999  
AMENDED IN SENATE AUGUST 17, 1999  
AMENDED IN SENATE JUNE 2, 1999  
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 435**

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**Introduced by Assembly Member Corbett  
(Coauthors: Assembly Members Aanestad, Alquist, Aroner,  
Cardoza, Knox, Kuehl, Longville, and Washington)  
(Coauthors: Senators Sher and Solis)**

February 12, 1999

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An act to amend Section 56.30 of the Civil Code, and to amend Section 3762 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 435, as amended, Corbett. Workers' compensation: medical records: disclosure.

(1) Existing law provides that medical information and records that are obtained as a result of a claim for workers' compensation are exempt from the Confidentiality of Medical Information Act.

This bill would provide that the exemption is not available with respect to the disclosure or use of medical information regarding the human immunodeficiency virus (HIV) without

a patient’s prior authorization unless the patient is an injured worker claiming to be infected with or exposed to the virus through an exposure incident arising out of and in the course of employment. *The bill would express legislative intent relating to the above changes that would be made by the bill.*

(2) Existing law requires an insurer to discuss all elements of the claim file in a workers’ compensation claim that affect the employer’s premium, except as specified.

This bill would prohibit, with certain exceptions, the disclosure to an employer of medical information about an employee who has filed a workers’ compensation.

(3) Existing law makes a violation of the Confidentiality of Medical Information Act which results in economic loss or personal injury to a patient a crime.

This bill, by including medical records and information subject to the Confidentiality of Medical Information Act that previously were excluded, broadens the scope of that crime, thus creating a state-mandated local program.

(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 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 56.30 of the Civil Code is  
2 amended to read:  
3 56.30. The disclosure and use of the following medical  
4 information shall not be subject to the limitations of this  
5 part:  
6 (a) (Mental health and developmental disabilities)  
7 Information and records obtained in the course of  
8 providing services under Division 4 (commencing with  
9 Section 4001), Division 4.1 (commencing with Section  
10 4400), Division 4.5 (commencing with Section 4500),  
11 Division 5 (commencing with Section 5000), Division 6



1 (commencing with Section 6000), or Division 7  
2 (commencing with Section 7100) of the Welfare and  
3 Institutions Code.

4 (b) (Public social services) Information and records  
5 that are subject to Sections 10850, 14124.1, and 14124.2 of  
6 the Welfare and Institutions Code.

7 (c) (State health services, communicable diseases,  
8 developmental disabilities) Information and records  
9 maintained pursuant to former Chapter 2 (commencing  
10 with Section 200) of Part 1 of Division 1 of the Health and  
11 Safety Code and pursuant to the Communicable Disease  
12 Prevention and Control Act (subdivision (a) of Section 27  
13 of the Health and Safety Code).

14 (d) (Licensing and statistics) Information and records  
15 maintained pursuant to Division 2 (commencing with  
16 Section 1200) and Part 1 (commencing with Section  
17 102100) of the Health and Safety Code; pursuant to  
18 Chapter 3 (commencing with Section 1200) of Division  
19 2 of the Business and Professions Code; and pursuant to  
20 Section 8608, 8706, 8817, or 8909 of the Family Code.

21 (e) (Medical survey, workers' safety) Information and  
22 records acquired and maintained or disclosed pursuant to  
23 Sections 1380 and 1382 of the Health and Safety Code and  
24 pursuant to Division 5 (commencing with Section 6300)  
25 of the Labor Code.

26 (f) (Industrial accidents) Information and records  
27 acquired, maintained, or disclosed pursuant to Division 1  
28 (commencing with Section 50), Division 4 (commencing  
29 with Section 3201), Division 4.5 (commencing with  
30 Section 6100), and Division 4.7 (commencing with  
31 Section 6200) of the Labor Code. Nothing in this  
32 subdivision shall permit the disclosure or use of medical  
33 information regarding whether a patient is infected with  
34 or exposed to the human immunodeficiency virus  
35 without the prior authorization from the patient unless  
36 the patient is an injured worker claiming to be infected  
37 with or exposed to the human immunodeficiency virus  
38 through an exposure incident arising out of and in the  
39 course of employment.



1 (g) (Law enforcement) Information and records  
2 maintained by a health facility which are sought by a law  
3 enforcement agency under Chapter 3.5 (commencing  
4 with Section 1543) of Title 12 of Part 2 of the Penal Code.

5 (h) (Investigations of employment accident or illness)  
6 Information and records sought as part of an investigation  
7 of an on-the-job accident or illness pursuant to Division 5  
8 (commencing with Section 6300) of the Labor Code or  
9 pursuant to Section 105200 of the Health and Safety Code.

10 (i) (Alcohol or drug abuse) Information and records  
11 subject to the federal alcohol and drug abuse regulations  
12 (Part 2 (commencing with Section 2.1) of subchapter A  
13 of Chapter 1 of Title 42 of the Code of Federal  
14 Regulations) or to Section 11977 of the Health and Safety  
15 Code dealing with narcotic and drug abuse.

16 (j) (Patient discharge data) Nothing in this part shall  
17 be construed to limit, expand, or otherwise affect the  
18 authority of the California Health Facilities Commission  
19 to collect patient discharge information from health  
20 facilities pursuant to Section 441.18 of the Health and  
21 Safety Code.

22 (k) Medical information and records disclosed to, and  
23 their use by, the Insurance Commissioner, the  
24 Commissioner of Corporations, the Division of Industrial  
25 Accidents, the Workers' Compensation Appeals Board,  
26 the Department of Insurance, or the Department of  
27 Corporations.

28 SEC. 2. Section 3762 of the Labor Code is amended to  
29 read:

30 3762. (a) Except as provided in subdivisions (b) and  
31 (c), the insurer shall discuss all elements of the claim file  
32 that affect the employer's premium with the employer,  
33 and shall supply copies of the documents that affect the  
34 premium at the employer's expense during reasonable  
35 business hours.

36 (b) The right provided by this section shall not extend  
37 to any document that the insurer is prohibited from  
38 disclosing to the employer under the attorney-client  
39 privilege, any other applicable privilege, or statutory



1 prohibition upon disclosure, or under Section 1877.4 of  
2 the Insurance Code.

3 (c) An insurer, third-party administrator retained by  
4 a self-insured employer pursuant to Section 3702.1 to  
5 administer the employer's workers' compensation claims,  
6 and those employees and agents specified by a  
7 self-insured employer to administer the employer's  
8 workers' compensation claims, are prohibited from  
9 disclosing or causing to be disclosed to an employer, any  
10 medical information, as defined in subdivision (b) of  
11 Section 56.05 of the Civil Code, about an employee who  
12 has filed a workers' compensation claim, except as  
13 follows:

14 (1) If the diagnosis of the injury for which workers'  
15 compensation is claimed would affect the employer's  
16 premium, then an insurer may disclose that diagnosis  
17 pursuant to subdivision (a).

18 ~~(2) Medical information that a treating medical  
19 provider determines is necessary for the employer to  
20 have in order for the employer to modify the employee's  
21 work duties as a result of the injury for which workers'  
22 compensation is claimed.~~

23 *(2) Medical information regarding the injury for  
24 which workers' compensation is claimed that is necessary  
25 for the employer to have in order for the employer to  
26 modify the employee's work duties.*

27 *SEC. 3. The amendments made to subdivision (f) of  
28 Section 56.30 of the Civil Code in the 1999–2000 Regular  
29 Session by this act are not intended either to abrogate the  
30 holdings in Allison v. Workers' Comp. Appeals Bd. (1999)  
31 72 Cal.App.4th 654, or to prohibit a redaction decision by  
32 a workers' compensation judge from being appealed to  
33 the Workers' Compensation Appeals Board.*

34 *SEC. 4. No reimbursement is required by this act  
35 pursuant to Section 6 of Article XIII B of the California  
36 Constitution because the only costs that may be incurred  
37 by a local agency or school district will be incurred  
38 because this act creates a new crime or infraction,  
39 eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section*



1 17556 of the Government Code, or changes the definition  
2 of a crime within the meaning of Section 6 of Article  
3 XIII B of the California Constitution.

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