

**ASSEMBLY BILL**

**No. 1994**

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**Introduced by Assembly Member Leslie**

February 9, 2006

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An act to amend Section 123115 of the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1994, as introduced, Leslie. Health records: minors: access.

Existing law, with specified exceptions, authorizes any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative, to be entitled to inspect patient records, upon presenting to the health care provider a written request for those records, and payment of reasonable clerical costs incurred in locating and making the records available. Under existing law, the representative of a minor patient is not entitled to inspect or obtain copies of the minor's patient records under certain circumstances, including when the minor's health care provider determines that access to the requested patient records would be detrimental to the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. Existing law exempts the health care provider from liability for making the decision as to whether the minor's records are available for inspection, except in cases of bad faith.

This bill would specify that the exemption from liability would also apply with respect to a health care provider's decision whether to make the minor patient's records available for copying.

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

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

1 SECTION 1. Section 123115 of the Health and Safety Code  
2 is amended to read:

3 123115. (a) The representative of a minor shall not be  
4 entitled to inspect or obtain copies of the minor’s patient records  
5 in either of the following circumstances:

6 (1) With respect to which the minor has a right of inspection  
7 under Section 123110.

8 (2) Where the health care provider determines that access to  
9 the patient records requested by the representative would have a  
10 detrimental effect on the provider’s professional relationship with  
11 the minor patient or the minor’s physical safety or psychological  
12 well-being. The decision of the health care provider as to whether  
13 or not a minor’s records are available for inspection *or copying*  
14 under this section shall not attach any liability to the provider,  
15 unless the decision is found to be in bad faith.

16 (b) When a health care provider determines there is a  
17 substantial risk of significant adverse or detrimental  
18 consequences to a patient in seeing or receiving a copy of mental  
19 health records requested by the patient, the provider may decline  
20 to permit inspection or provide copies of the records to the  
21 patient, subject to the following conditions:

22 (1) The health care provider shall make a written record, to be  
23 included with the mental health records requested, noting the  
24 date of the request and explaining the health care provider’s  
25 reason for refusing to permit inspection or provide copies of the  
26 records, including a description of the specific adverse or  
27 detrimental consequences to the patient that the provider  
28 anticipates would occur if inspection or copying were permitted.

29 (2) The health care provider shall permit inspection by, or  
30 provide copies of the mental health records to, a licensed  
31 physician and surgeon, licensed psychologist, licensed marriage  
32 and family therapist, or licensed clinical social worker,  
33 designated by request of the patient. Any marriage and family  
34 therapist registered intern, as defined in Chapter 13 (commencing  
35 with Section 4980) of Division 2 of the Business and Professions  
36 Code, may not inspect the patient’s mental health records or  
37 obtain copies thereof, except pursuant to the direction or  
38 supervision of a licensed professional specified in subdivision (f)

1 of Section 4980.40 of the Business and Professions Code. Prior  
2 to providing copies of mental health records to a marriage and  
3 family therapist registered intern, a receipt for those records shall  
4 be signed by the supervising licensed professional. The licensed  
5 physician and surgeon, licensed psychologist, licensed marriage  
6 and family therapist, licensed clinical social worker, or marriage  
7 and family therapist registered intern to whom the records are  
8 provided for inspection or copying shall not permit inspection or  
9 copying by the patient.

10 (3) The health care provider shall inform the patient of the  
11 provider's refusal to permit him or her to inspect or obtain copies  
12 of the requested records, and inform the patient of the right to  
13 require the provider to permit inspection by, or provide copies to,  
14 a licensed physician and surgeon, licensed psychologist, licensed  
15 marriage and family therapist, or licensed clinical social worker,  
16 designated by written authorization of the patient.

17 (4) The health care provider shall indicate in the mental health  
18 records of the patient whether the request was made under  
19 paragraph (2).