

AMENDED IN ASSEMBLY MAY 15, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1178**

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**Introduced by Assembly Member Hernandez**

February 23, 2007

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An act to amend Section 56.10 of the Civil Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Hernandez. Medical information: disclosures.

The Confidentiality of Medical Information Act prohibits a provider of health care, health care service plan, or contractor, as defined, from disclosing medical information regarding a patient, enrollee, or subscriber, except as authorized by that patient, enrollee, or subscriber, or as otherwise required or authorized by law.

This bill would further except from that prohibition; the disclosure of medical information ~~under circumstances in which a psychotherapist, as defined, has reasonable cause to believe that a patient is a danger to himself or herself or to the person or property of another and that disclosure is necessary to prevent the threatened danger,~~ *consistent with applicable law and standards of ethical conduct, by a psychotherapist, as defined, if the psychotherapist, in good faith, believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat.*

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 56.10 of the Civil Code is amended to  
2 read:

3 56.10. (a) No provider of health care, health care service plan,  
4 or contractor shall disclose medical information regarding a patient  
5 of the provider of health care or an enrollee or subscriber of a  
6 health care service plan without first obtaining an authorization,  
7 except as provided in subdivision (b) or (c).

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

- 11 (1) By a court pursuant to an order of that court.
- 12 (2) By a board, commission, or administrative agency for  
13 purposes of adjudication pursuant to its lawful authority.
- 14 (3) By a party to a proceeding before a court or administrative  
15 agency pursuant to a subpoena, subpoena duces tecum, notice to  
16 appear served pursuant to Section 1987 of the Code of Civil  
17 Procedure, or any provision authorizing discovery in a proceeding  
18 before a court or administrative agency.
- 19 (4) By a board, commission, or administrative agency pursuant  
20 to an investigative subpoena issued under Article 2 (commencing  
21 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title  
22 2 of the Government Code.
- 23 (5) By an arbitrator or arbitration panel, when arbitration is  
24 lawfully requested by either party, pursuant to a subpoena duces  
25 tecum issued under Section 1282.6 of the Code of Civil Procedure,  
26 or any other provision authorizing discovery in a proceeding before  
27 an arbitrator or arbitration panel.
- 28 (6) By a search warrant lawfully issued to a governmental law  
29 enforcement agency.
- 30 (7) By the patient or the patient’s representative pursuant to  
31 Chapter 1 (commencing with Section 123100) of Part 1 of Division  
32 106 of the Health and Safety Code.
- 33 (8) By a coroner, when requested in the course of an  
34 investigation by the coroner’s office for the purpose of identifying  
35 the decedent or locating next of kin, or when investigating deaths  
36 that may involve public health concerns, organ or tissue donation,  
37 child abuse, elder abuse, suicides, poisonings, accidents, sudden  
38 infant deaths, suspicious deaths, unknown deaths, or criminal

1 deaths, or when otherwise authorized by the decedent's  
2 representative. Medical information requested by the coroner under  
3 this paragraph shall be limited to information regarding the patient  
4 who is the decedent and who is the subject of the investigation and  
5 shall be disclosed to the coroner without delay upon request.

6 (9) When otherwise specifically required by law.

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

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

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

37 (3) The information may be disclosed to any person or entity  
38 that provides billing, claims management, medical data processing,  
39 or other administrative services for providers of health care or  
40 health care service plans or for any of the persons or entities

1 specified in paragraph (2). However, no information so disclosed  
2 shall be further disclosed by the recipient in any way that would  
3 be violative of this part.

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

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

26 (6) The information may be disclosed to the county coroner in  
27 the course of an investigation by the coroner's office when  
28 requested for all purposes not included in paragraph (8) of  
29 subdivision (b).

30 (7) The information may be disclosed to public agencies, clinical  
31 investigators, including investigators conducting epidemiologic  
32 studies, health care research organizations, and accredited public  
33 or private nonprofit educational or health care institutions for bona  
34 fide research purposes. However, no information so disclosed shall  
35 be further disclosed by the recipient in any way that would disclose  
36 the identity of any patient or be violative of this part.

37 (8) A provider of health care or health care service plan that has  
38 created medical information as a result of employment-related  
39 health care services to an employee conducted at the specific prior

1 written request and expense of the employer may disclose to the  
2 employee's employer that part of the information that:

3 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim  
4 or challenge to which the employer and the employee are parties  
5 and in which the patient has placed in issue his or her medical  
6 history, mental or physical condition, or treatment, provided that  
7 information may only be used or disclosed in connection with that  
8 proceeding.

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

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

24 (10) The information may be disclosed to a health care service  
25 plan by providers of health care that contract with the health care  
26 service plan and may be transferred among providers of health  
27 care that contract with the health care service plan, for the purpose  
28 of administering the health care service plan. Medical information  
29 may not otherwise be disclosed by a health care service plan except  
30 in accordance with the provisions of this part.

31 (11) Nothing in this part shall prevent the disclosure by a  
32 provider of health care or a health care service plan to an insurance  
33 institution, agent, or support organization, subject to Article 6.6  
34 (commencing with Section 791) of Part 2 of Division 1 of the  
35 Insurance Code, of medical information if the insurance institution,  
36 agent, or support organization has complied with all requirements  
37 for obtaining the information pursuant to Article 6.6 (commencing  
38 with Section 791) of Part 2 of Division 1 of the Insurance Code.

39 (12) The information relevant to the patient's condition and care  
40 and treatment provided may be disclosed to a probate court

1 investigator engaged in determining the need for an initial  
2 conservatorship or continuation of an existent conservatorship, if  
3 the patient is unable to give informed consent, or to a probate court  
4 investigator, probation officer, or domestic relations investigator  
5 engaged in determining the need for an initial guardianship or  
6 continuation of an existent guardianship.

7 (13) The information may be disclosed to an organ procurement  
8 organization or a tissue bank processing the tissue of a decedent  
9 for transplantation into the body of another person, but only with  
10 respect to the donating decedent, for the purpose of aiding the  
11 transplant. For the purpose of this paragraph, the terms “tissue  
12 bank” and “tissue” have the same meaning as defined in Section  
13 1635 of the Health and Safety Code.

14 (14) The information may be disclosed when the disclosure is  
15 otherwise specifically authorized by law, such as the voluntary  
16 reporting, either directly or indirectly, to the federal Food and Drug  
17 Administration of adverse events related to drug products or  
18 medical device problems.

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

23 (16) The information may be disclosed to a third party for  
24 purposes of encoding, encrypting, or otherwise anonymizing data.  
25 However, no information so disclosed shall be further disclosed  
26 by the recipient in any way that would be violative of this part,  
27 including the unauthorized manipulation of coded or encrypted  
28 medical information that reveals individually identifiable medical  
29 information.

30 (17) For purposes of disease management programs and services  
31 as defined in Section 1399.901 of the Health and Safety Code,  
32 information may be disclosed as follows: (A) to any entity  
33 contracting with a health care service plan or the health care service  
34 plan’s contractors to monitor or administer care of enrollees for a  
35 covered benefit, provided that the disease management services  
36 and care are authorized by a treating physician, or (B) to any  
37 disease management organization, as defined in Section 1399.900  
38 of the Health and Safety Code, that complies fully with the  
39 physician authorization requirements of Section 1399.902 of the  
40 Health and Safety Code, provided that the health care service plan

1 or its contractor provides or has provided a description of the  
2 disease management services to a treating physician or to the health  
3 care service plan's or contractor's network of physicians. Nothing  
4 in this paragraph shall be construed to require physician  
5 authorization for the care or treatment of the adherents of any  
6 well-recognized church or religious denomination who depend  
7 solely upon prayer or spiritual means for healing in the practice  
8 of the religion of that church or denomination.

9 (18) The information may be disclosed, as permitted by state  
10 and federal law or regulation, to a local health department for the  
11 purpose of preventing or controlling disease, injury, or disability,  
12 including, but not limited to, the reporting of disease, injury, vital  
13 events such as birth or death, and the conduct of public health  
14 surveillance, public health investigations, and public health  
15 interventions, as authorized or required by state or federal law or  
16 regulation.

17 ~~(19) The information may be disclosed when a psychotherapist,~~  
18 ~~as defined in Section 1010 of the Evidence Code, has reasonable~~  
19 ~~cause to believe that the patient is in such a mental or emotional~~  
20 ~~condition as to be dangerous to himself or herself or to the person~~  
21 ~~or property of another and that disclosure of the information is~~  
22 ~~necessary to prevent the threatened danger.~~

23 *(19) The information may be disclosed, consistent with*  
24 *applicable law and standards of ethical conduct, by a*  
25 *psychotherapist, as defined in Section 1010 of the Evidence Code,*  
26 *if the psychotherapist, in good faith, believes the disclosure is*  
27 *necessary to prevent or lessen a serious and imminent threat to*  
28 *the health or safety of a person or the public, and the disclosure*  
29 *is made to a person or persons reasonably able to prevent or lessen*  
30 *the threat, including the target of the threat.*

31 (d) Except to the extent expressly authorized by the patient or  
32 enrollee or subscriber or as provided by subdivisions (b) and (c),  
33 no provider of health care, health care service plan, contractor, or  
34 corporation and its subsidiaries and affiliates shall intentionally  
35 share, sell, use for marketing, or otherwise use any medical  
36 information for any purpose not necessary to provide health care  
37 services to the patient.

38 (e) Except to the extent expressly authorized by the patient or  
39 enrollee or subscriber or as provided by subdivisions (b) and (c),  
40 no contractor or corporation and its subsidiaries and affiliates shall

1 further disclose medical information regarding a patient of the  
2 provider of health care or an enrollee or subscriber of a health care  
3 service plan or insurer or self-insured employer received under  
4 this section to any person or entity that is not engaged in providing  
5 direct health care services to the patient or his or her provider of  
6 health care or health care service plan or insurer or self-insured  
7 employer.

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