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An act to amend Sections 120970 and 121025 of the Health and Safety Code, relating to public health.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 120970 of the Health and Safety Code is amended to read:

120970. ~~In the event~~If the department utilizes a contractor or subcontractor to administer any aspect of the program provided for under this chapter, the following additional client assistance provisions shall apply:

(a) The contractor shall, either directly or through subcontracted pharmacy outlets, obtain and dispense the necessary drugs, in their approved forms according to the program formulary, and shall comply with all applicable provisions of the California Pharmacy Law (Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code) and regulations adopted thereunder.

(b) Upon receipt of notification by the department, the contractor shall be able to accommodate additions or changes in the formulary within 10 business days.

(c) Clients shall receive drugs from a participating pharmacy either directly, through the client's designated representative, or mailed or delivered to the client's place of residence by the contractor or subcontractor, whichever the client prefers. Proof of delivery of the prescription to the client's designated address, by signature acknowledging receipt thereof, shall be required for all mail order prescriptions.

(d) Clients shall have their prescriptions filled within 24 hours of submission of prescription requests, and mail order prescriptions shall be shipped by the contractor within 48 hours of receipt of client prescription requests.



(e) The contractor shall provide 24-hour free telephone and fax machine access for physicians and surgeons, or medical care providers as authorized under state law, to call in or transmit prescriptions for mail order pharmacy.

(f) Clients shall have toll-free telephone access during business hours to speak with licensed pharmacists for medication counseling and for mail order prescription requests. The contractor shall provide consultation in the prevention of potentially harmful drug interactions in connection with prescriptions filled for clients.

(g) The contractor shall have the ability to subcontract with any willing provider, including independent and sole proprietorship pharmacies, provided the subcontractor accepts the rates offered by the contractor, supplies the contractor with timely information, and complies with necessary contract terms and conditions and other needs of the program as determined by the contractor or the department.

(h) It is the intent of the Legislature that the contractor subcontract with all willing providers accepting the terms and conditions provided for in subdivisions (a) to (g), inclusive, in order to facilitate continuity of care for clients under this chapter.

(i) All types of information, whether written or oral, concerning a client, made or kept in connection with the administration of this program ~~shall be confidential, and shall not be used or disclosed except for purposes directly connected with the administration of the program.~~ ADAP services, which includes subsidizing costs associated with health care service plan contracts and health insurance premium payment assistance, shall be confidential, and shall not be used or disclosed except for any of the following:

(1) For purposes directly connected with the administration of the program.



(2) For coordinating client eligibility with programs funded by the federal Ryan White HIV/AIDS Program (Ryan White HIV/AIDS Treatment Extension Act of 2009, (Public Law 111-87, 42 U.S.C. Sec. 201, et seq.)).

(3) If disclosure is otherwise authorized by law.

(4) Pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

(j) Information regarding program policies and procedures, including enrollment procedures, eligibility guidelines, and lists of drugs covered, shall be made available to clients in appropriate literacy levels in English, Spanish, Mandarin/Cantonese, Tagalog, and in other languages, as determined by the department.

(k) The contractor shall develop and maintain a timely and accessible grievance procedure for clients to resolve problems regarding all components of the delivery of drugs under this chapter.

SEC. 2. Section 121025 of the Health and Safety Code is amended to read:

121025. (a) Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, are confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

(b) In accordance with subdivision (g) of Section 121022, a state or local public health agency, or an agent of that agency, may disclose personally identifying



information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.

(c) Any disclosures authorized by subdivision (a), (b), or this subdivision shall include only the information necessary for the purpose of that disclosure and shall be made only upon the agreement that the information will be kept confidential as described in subdivision (a). Except as provided in paragraphs (1) to (3), inclusive, or as otherwise provided by law, any disclosure authorized by subdivision (a) or (b) shall not be made without written authorization as described in subdivision (a). Any unauthorized further disclosure shall be subject to the penalties described in subdivision (e).

(1) Notwithstanding any other law, the following disclosures are authorized for the purpose of enhancing the completeness of reporting to the federal Centers for Disease Control and Prevention (CDC) of HIV/AIDS and coinfection with tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, and meningococcal infection:

(A) The local public health agency HIV surveillance staff may further disclose the information to the health care provider who provides HIV care to the HIV-positive person who is the subject of the record for the purpose of assisting in compliance with subdivision (a) of Section 121022.

(B) Local public health agency tuberculosis control staff may further disclose the information to state public health agency tuberculosis control staff, who may further disclose the information, without disclosing patient identifying information, to the



CDC, to the extent the information is requested by the CDC and permitted by subdivision (b), for purposes of the investigation, control, or surveillance of HIV and tuberculosis coinfections.

(C) Local public health agency sexually transmitted disease control staff may further disclose the information to state public health agency sexually transmitted disease control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC and permitted by subdivision (b), for the purposes of the investigation, control, or surveillance of HIV and syphilis, gonorrhea, or chlamydia coinfection.

(D) For purposes of the investigation, control, or surveillance of HIV and its coinfection with hepatitis B, hepatitis C, and meningococcal infection, local public health agency communicable disease staff may further disclose the information to state public health agency staff, who may further disclose the information, without disclosing patient identifying information, to the CDC to the extent the information is requested by the CDC and permitted by subdivision (b).

(2) Notwithstanding any other law, the following disclosures are authorized for the purpose of facilitating appropriate HIV/AIDS medical care and treatment:

(A) State public health agency HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program staff, and care services staff may further disclose the information to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.



(B) ~~AIDS-HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program-staff staff~~, and care services staff in the State Department of Public Health may further disclose the information directly to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(C) Local public health agency staff may further disclose acquired or developed information to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care for the purpose of proactively offering and coordinating care and treatment services to him or her.

(3) Notwithstanding any other law, for the purpose of facilitating appropriate medical care and treatment of persons coinfectd with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, or meningococcal infection, local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis control staff, the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV, tuberculosis, hepatitis B, hepatitis C, meningococcal infection, and sexually transmitted disease care.

(4) For the purposes of paragraphs (2) and (3), "staff" does not include nongovernmental entities, but shall include state and local contracted employees who work within state and local public health departments.



(d) A confidential public health record, as defined in subdivision (c) of Section 121035, shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e) (1) A person who negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars (\$5,000), plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose record was disclosed.

(2) A person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars (\$5,000) and not more than twenty-five thousand dollars (\$25,000), plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3) A person who willfully, maliciously, or negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars (\$25,000), or both, plus court costs, as



determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(4) A person who commits an act described in paragraph (1), (2), or (3) is liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(5) Each violation of this section is a separate and actionable offense.

(6) This section does not limit or expand the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.

(f) ~~In the event that~~ If a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability or insurability of a person.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: HIV/AIDS: drug assistance: treatment data sharing.

Existing law requires the State Department of Public Health, to the extent funding is appropriated in the annual Budget Act, to establish a program to provide drug treatments to persons infected with human immunodeficiency virus (HIV) and to persons who are HIV-negative who have been prescribed preexposure prophylaxis included on the AIDS Drug Assistance Program (ADAP) formulary for the prevention of HIV infection, as provided. Existing law also makes, if the department uses a contractor or subcontractor to administer any aspect of the program, all types of information, whether written or oral, concerning a client, made or kept in connection with the administration of the program confidential, and not subject to disclosure except for purposes directly connected with the administration of the program.

This bill would, among other things, also allow those contractors and subcontractors to disclose information for the purposes of coordinating client eligibility



with programs funded by the federal Ryan White HIV/AIDS Program, if disclosure is otherwise authorized by law, and pursuant to written authorization by the person who is the subject of the record or by his or her guardian or conservator.

Existing law requires public health records related to HIV or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, to be confidential and not disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator. Existing law authorizes certain state public health officials to disclose those records for the purpose of facilitating appropriate HIV/AIDS medical care and treatment, as specified.

This bill would include HIV prevention staff and HIV surveillance staff, as provided, among those state public health officials authorized to disclose those records for the purpose of facilitating appropriate HIV/AIDS medical care and treatment.

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

