

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 278 (Cabaldon)
Version: March 28, 2025
Hearing Date: April 8, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

Health data: HIV test results

DIGEST

The bill authorizes the sharing of HIV test information for the purpose of administering quality improvement programs designed to improve HIV care for Medi-Cal beneficiaries, including value-based payment programs and healthy behavior incentive programs, as provided.

EXECUTIVE SUMMARY

Existing law provides strong confidentiality provisions for the protection of HIV test information and the identity of the test subject, including prohibitions on sharing that information and civil penalties for the negligent release of that information. There are limited exceptions to the prohibition on sharing this data. These exceptions serve various public health purposes, such as proactively offering and coordinating care and treatment or when necessary to carry out the duties of certain public health agencies in the investigation, control, or surveillance of disease. This bill seeks to authorize the sharing of this confidential HIV test information for the limited purpose of administering quality improvement programs designed to improve HIV care for Medi-Cal beneficiaries. The bill provides an opt out for sharing HIV test information for this purpose and ensures that existing confidentiality protections also apply to this new authorization to share HIV test information. The bill is sponsored by the San Francisco AIDS Foundation and supported by a number of organizations dedicated to LGBTQ+ rights and civil rights and the California Legislative LGBTQ Caucus. No timely opposition was received by the Committee. The bill passed the Senate Health Committee on a vote of 10 to 0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Establishes the Health Insurance Portability and Accountability Act (HIPAA), which provides privacy protections for patients' protected health information and generally prohibits a covered entity, as defined (health plan, health care provider, and health care clearing house), from using or disclosing protected health information except as specified or as authorized by the patient in writing. (45 C.F.R. §§ 164.500 et. seq.)
- 2) Provides that if HIPAA's provisions conflict with a provision of state law, the provision that is the most protective of patient privacy prevails. (45 C.F.R. §§ 164.500 et. seq.)

Existing state law:

- 1) Establishes the Confidentiality of Medical Information Act, which establishes protections for the use of medical information. (Civ. Code §§ 56 et. seq.)
 - a) Prohibits providers of health care, health care service plans, or contractors, as defined, from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56.10.)
- 2) Establishes the Medi-Cal program, which is administered by the Department of Health Care Services (DHCS), and under which qualified low-income individuals receive health care services. (Welf. & Inst. Code §§ 14000 et. seq.)
- 3) Requires health care providers and laboratories to report cases of HIV infection to the local health officers (LHOs) using patient names on a form developed by CDPH.
 - a) Requires CDPH and LHD employees and their contractors to sign confidentiality agreements annually. (Health & Saf. Code § 121022.)
- 4) Prohibits public health records relating to HIV/ AIDS containing personally identifying information that were developed or acquired by CDPH or an LHD, or their agent, from being disclosed, except for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by that person's guardian or conservator. (Health & Saf. Code §121025(a).)
 - a) Authorizes CDPH or an LHD, or their agent, to disclose personally identifying information in public health records 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 CDPH or an LHD. (*Id.* at (b).)

- b) Authorizes CDPH and LHDs to disclose personally identifying information in public health records for the coordination of, linkage to, or reengagement in care, as determined by CDPH or a LHD. (*Ibid.*)
 - c) Any disclosures made are to include only the information necessary for the purpose of the disclosure and only upon agreement that the information will be kept confidential. (*Id.* at (c).)
- 5) Authorizes the disclosure of personally identifying information in public health records related to HIV/ AIDS by specified state and local public health staff to the HIV-positive person or health care provider for the purpose of proactively offering and coordinating care and treatment services to the HIV-positive person. (*Id.* at (c)(2).)
- 6) Prohibits the disclosure of the results of an HIV test to any third party in a manner that provides identifying characteristics of the subject of the test, except to the physician who ordered the test or the subject's health care providers for the purposes of diagnosis, care, or treatment of the patient. Excludes state-regulated health care service plans from being considered health care providers. (Health & Saf. Code § 120980 and §120985.)
- 7) Provides various protections for the confidentiality of the results of HIV tests and the identity of the person who took the test, including a prohibition on compelled disclosure of identifying information regarding HIV tests in civil, criminal, administrative, or legislative proceedings, and establishes civil penalties for negligently disclosing the result of such a test in a manner that identifies or provides identifying characteristics of the person to whom the test results apply. (Health & Saf. Code § 120975 & 120980.)

This bill:

- 1) Authorizes the results of an HIV test to be disclosed, without the written consent of the subject of the test, to DHCS staff and the subject's Medi-Cal plan for the purpose of administering quality improvement programs, including value-based payment programs and health behavior incentive programs, designed to improve HIV care for Medi-Cal enrollees.
- 2) Authorizes the disclosure of public health records related to HIV/ AIDS by CDPH HIV surveillance staff to DHCS, who may further disclose to the Medi-Cal plan to which a Medi-Cal enrollee is assigned and who is the subject of the record for the purpose of proactively offering and coordinating care and treatment services to that person or for the purpose of administering quality improvement programs, including value-based payment programs and health behavior incentive programs, designed to improve HIV care for Medi-Cal enrollees

- 3) Provides that HIV test results may not be further shared with a federal agency or another state authority unless otherwise required by federal law.
- 4) Requires DHCS, in consultation with CDPH, to develop an opt-out mechanism for Medi-Cal enrollees who do not want their test results or health records shared as authorized by this bill.
- 5) Specifies that existing protections and penalties regarding negligent, willful, or malicious disclosure of HIV tests or information also apply to these provisions, including the existing prohibition on compelled disclosure of identifying information regarding HIV tests in civil, criminal, administrative, or legislative proceedings.

COMMENTS

1. Stated need for the bill

The author writes:

Nearly one-third of Californians living with HIV depend on Medi-Cal for their healthcare. However, around one in four of these individuals are not receiving essential care, such as viral load testing. Existing law restricts the Department of Public Health and healthcare providers from sharing public-health data about viral-load suppression with the Department of Health Care Services and managed-care organizations. This restriction is an outlier from an era of HIV panic and impedes the use of crucial tools that could improve health outcomes.

Because of these restrictions, incentive programs that have been used successfully in other states – such as value-based payment programs that reward providers for improvements in patient outcomes or programs that offer financial incentives like gift cards to enrollees utilizing preventative care services– cannot be used to support HIV-positive Medi-Cal recipients. This limitation prevents providers from utilizing performance-based funding to enhance care for this vulnerable population.

SB 278 will allow Medi-Cal enrollees living with HIV to benefit from these programs by allowing viral load data to be shared confidentially for the purpose of administering quality improvement programs. This change will ensure that Medi-Cal enrollees living with HIV can benefit from the same incentive-driven improvements in care as other patients.

2. HIV monitoring, confidentiality, and Medi-Cal improvement programs

The author and sponsor of the bill are seeking an additional exception to allow for the sharing of HIV test information for the purpose of administering quality improvement

programs designed to improve HIV care for Medi-Cal beneficiaries, including value-based payment programs and healthy behavior incentive programs. To accomplish this, the bill authorizes the sharing of HIV test information to DHCS, which in turn is authorized to share that information with the Medi-Cal managed care plan to which the subject of the test is assigned. Additionally, information is authorized to be shared with the health care provider and the subject of the test for the purpose of proactively offering and coordinating care and treatment services or for the purpose of administering quality improvement programs.

The sponsor of the bill, the San Francisco AIDS Foundation, notes that in California “more than 50,000 people living with HIV are not ‘virally suppressed’” and that the state “will need innovative systems that address behavioral health and the social determinants of health, in addition to physical health” to address this issue. They point to outcomes in other states as evidence that incentive programs produce beneficial results, writing:

[I]n 2015, Louisiana’s Medicaid agency began withholding a portion of its payments to MCPs [managed care plans] unless they achieved (or made progress toward) a target viral suppression rate among their members. This value-based payment strategy has improved collaboration between the plans and the state’s public-health agency, including via a regular HIV quality-improvement meeting where participants share strategies for engaging their members in care. The results speak for themselves: Since 2016, the viral-suppression rate among Louisiana’s Medicaid enrollees has increased from 67% to 80%.

The Senate Health Committee analysis of this bill notes:

A January 2025, U.S. Health & Human Services Agency Guidance “Opportunities to Improve HIV Testing, Prevention, and Care Delivery for Medicaid and CHIP Beneficiaries” discusses a number of measures that states can implement to improve HIV testing and treatment, including adopting the HIV viral load suppression metric and highlighted states that have done this and have data-sharing agreements between their state Medicaid agencies and their state HIV surveillance program. DHCS and the Office of AIDS have previously published data on Medi-Cal plan viral load suppression. To produce that data, DHCS provided to the Office of AIDS a list of all Medi-Cal HIV-positive beneficiaries age 18 years or older, along with a variable indicating whether the patient received a medical visit during the given calendar year and variables necessary for matching to CDPH’s HIV surveillance data. Using a probabilistic matching algorithm, the Office of AIDS matched the Medi-Cal beneficiaries with HIV-positive individuals in the CDPH HIV surveillance system to confirm HIV infection and determine whether patients were virally suppressed. This bill seeks to allow for information sharing in the other direction – HIV information from CDPH to DHCS and the Medi-Cal plans in order to

administrate quality improvement programs or otherwise improve care and treatment for the individual.¹

In order to provide enhanced confidentiality protections, the bill requires DHCS, in consultation with CDPH, to provide a Medi-Cal beneficiary the ability to opt out of disclosing their personally identifying information in public health records relating to HIV or AIDS when that information is being shared to administer quality improvement programs under Medi-Cal. The bill also prohibits HIV testing information from being shared with a health care service plan, unless express authorization is received from the test subject or their representative. Additionally, the bill specifies that the new authorizations to share HIV patient information are covered by existing confidentiality provisions related to the prohibition on compelled disclosure of identifying information regarding HIV tests and civil penalties for negligent disclosure of that information. Finally, the bill clarifies that the specific authorizations to share HIV testing data does not allow for further sharing with a federal agency or authority in another state, unless specifically required by federal law.

3. Statements in support

Equality California writes in support stating:

Almost a third of all people living with HIV in California are enrolled in the state's Medi-Cal program. Unfortunately, data shows that many Medi-Cal patients living with HIV are not receiving the care they need to stay healthy. For other health conditions, Medi-Cal can produce better outcomes using "quality improvement" strategies. For example, Medi-Cal can offer bonus payments to MCPs for achieving certain goals related to their members' health.

Unfortunately, Medi-Cal cannot use these quality-improvement strategies to improve care for patients with HIV because state law prohibits the disclosure of any HIV lab-test result to health plans, including Medi-Cal MCPs. MCPs need HIV lab-test results to identify members experiencing poor HIV health outcomes and offer them additional support.

SB 278 would dismantle barriers to better HIV care – while safeguarding sensitive health information – by allowing the disclosure of a patient's HIV lab-test results to their Medi-Cal MCP for the purpose of quality improvement.[...]

SB 278 will clear the way to ensuring that Medi-Cal members with HIV are receiving high quality care and bring the state one step closer to ending the HIV epidemic.

¹ Sen. Health Comm. analysis of SB 278 (2025-26 reg. sess.) as amended Mar. 17, 2025 at p. 3.

SUPPORT

San Francisco AIDS Foundation (sponsor)
California Legislative LGBTQ Caucus
California LGBTQ Health and Human Services Network
California Pan-Ethnic Health Network
DAP Health
End The Epidemics: Californians Mobilizing to End HIV, STIs, Viral Hepatitis, & Overdose
Equality California
Essential Access Health
National Health Law Program
Sacramento LGBT Community Center
The Source LGBT+ Center
Viet Rainbow of Orange County
ViiV Healthcare

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: SB 504 (Laird, 2025) authorizes a health care provider of a patient with an HIV infection that has already been reported to a local health officer to communicate with CDPH or a LHO in order to obtain public health recommendations on care and treatment or to refer the patient to services provided by CDPH. SB 504 is currently pending in this Committee.

Prior Legislation:

SB 1333 (Eggman, Ch. 472, Stats. 2024) revised and recast existing law to permit the CDPH and LHOs to disclose personally identifying information in public health records for the coordination of, linkage to, or reengagement in care, as provided.

SB 78 (Committee on Budget and Fiscal Review, Ch. 38, Stats. 2019) required, among other things, DHCS to develop value-based payment programs for specified conditions.

PRIOR VOTES:

Senate Health Committee (10 Ayes, 0 Noes)
