

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

AB 894 (Carrillo)
Version: June 9, 2025
Hearing Date: July 1, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

General acute care hospitals: patient directories

DIGEST

This bill requires a general acute care hospital to inform a patient that the patient may restrict or prohibit the use or disclosure of protected health information (PHI) in the hospital's patient directory, as provided for in federal regulations, as specified.

EXECUTIVE SUMMARY

California is home to about 10.6 million immigrants. Every person in the United States who is a non-citizen has some risk of being subject to immigration enforcement activities or deportation. This risk has serious effects on families, and contributes to fears that prevent many non-citizens from seeking essential health care. With a recent increase in immigration enforcement activity, these risks and their impact have become an even greater concern for the state, especially in the wake of the federal government rescinding guidance to avoid enforcement in sensitive areas, such as hospitals.

Existing federal Health Insurance Portability and Accountability Act (HIPAA) regulations authorize health facilities to use patients' PHI in patient directories and to use and disclose it to specified parties under certain conditions. However, patients must be afforded the right to object and prevent this use and disclosure.

This bill helps to implement this directive by requiring general acute care hospitals, beginning July 1, 2026, to ensure that patients are aware of their rights to restrict or prohibit the use and disclosure of PHI in the hospital's directory. Hospitals must verbally inform patients of this right and provide a document explaining the directory and the PHI included and provide the patient the opportunity to check a box to prevent use or disclosure thereof. This bill is author-sponsored. No timely support or opposition has been received by the Committee. This bill passed out of 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' PHI and generally prohibits a covered entity, as defined (health plan, health care provider, and health care clearing house), from using or disclosing PHI 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 law:

- 1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, § 1.)
- 2) Establishes the Information Practices Act of 1977, which declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them. (Civ. Code § 1798 et seq.)
- 3) Establishes the California Medical Information Act (CMIA), which establishes protections for the use of medical information. (Civ. Code § 56 et seq.)
- 4) 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.)
- 5) Provides that every provider of health care, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall do so in a manner that preserves the confidentiality of the information contained therein. Any provider of health care, health care service plan, pharmaceutical company, or contractor who negligently creates, maintains, preserves, stores, abandons, destroys, or disposes of medical information shall be subject to remedies and penalties, as specified. (Civ. Code § 56.101.)
- 6) Requires the Attorney General, by April 1, 2018, and in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement at specified locations, including health facilities

operated by the state or a political subdivision thereof. Health facilities operated by the state or a political division thereof are required to implement the Attorney General's model policy, or an equivalent. (Gov. Code § 7284.8.)

This bill:

- 1) Requires a general acute care hospital to inform a patient, at the time of admission or as soon as reasonably possible in cases of patient incapacity or an emergency treatment circumstance, that the patient may restrict or prohibit the use or disclosure of PHI in the hospital's patient directory, as provided in Section 164.510 of Title 45 of the Code of Federal Regulations, in both of the following manners:
 - a) Using a separate paper or digital document that only includes an acknowledgment of receipt of the hospital's notice of privacy practices required by Section 164.520 of Title 45 of the Code of Federal Regulations and information regarding the hospital's directory and the included PHI. The separate document shall include a check box for the patient to mark to restrict or prohibit use or disclosure of the PHI in the hospital's patient directory.
 - b) Having hospital personnel verbally inform the patient.
- 2) Requires the information required above to be made available or provided in the top five languages, other than English, in the hospital's service area.
- 3) Provides that it shall become operative on July 1, 2026.

COMMENTS

1. Protections for health-related information

California state and federal laws and regulations give all patients the right to keep their medical records private in most circumstances.

HIPAA, enacted in 1996, guarantees privacy protections for individuals with regards to specific health information. (Pub.L. 104-191, 110 Stat. 1936.) Generally, PHI is any information held by a covered entity which concerns health status, provision of healthcare, or payment for healthcare that can be connected to an individual. HIPAA privacy regulations require healthcare providers and organizations to develop and follow procedures that ensure the confidentiality and security of personal health information when it is transferred, received, handled, or shared. HIPAA further requires reasonable efforts when using, disclosing, or requesting PHI to limit disclosure of that information to the minimum amount necessary to accomplish the intended purpose.

CMIA (Civ. Code § 56 et seq.) allows adult patients in California to keep personal health information confidential and decide whether and when to share that information. These provisions seek to protect Californians' fundamental right to privacy. (Cal. Const., art. I, § 1.) CMIA protects "medical information," and generally regulates what providers of health care and health care service plans can do with such information.

Pursuant to HIPAA regulations,¹ a covered entity may use or disclose PHI, provided that the individual is informed in advance of the use or disclosure and has the opportunity to agree to or prohibit or restrict the use or disclosure, as provided. The covered entity may orally inform the individual of and obtain the individual's oral agreement or objection to a use or disclosure permitted by this section.

The regulations authorize a covered health care provider to use specified PHI to maintain a directory of individuals in its facility and to use or disclose for directory purposes such information to members of the clergy or to other persons who ask for the individual by name.² However, the regulations specifically require the provider to inform an individual of the PHI that it may include in a directory and the persons to whom it may disclose such information and provide the individual with the opportunity to restrict or prohibit some or all of the uses or disclosures permitted.

2. Ensuring patients know their rights with respect to PHI

This bill seeks to ensure that Californians are given notice of their rights to keep their PHI from being included in hospital directories as required by the federal regulations discussed above. It requires hospitals to inform patients at admission or as soon as reasonably possible thereafter that the patient may restrict or prohibit the use or disclosure of PHI in the hospital's patient directory. Hospital personnel must verbally inform patients of these rights and provide a paper or digital document within which they can check a box to take advantage of those rights. To ensure equitable access, the information must be made available in the top five languages in the hospital's service area.

According to the author:

In a time where personal safety and privacy are more critical than ever, we must take immediate action to protect those who are most at risk. The current practice of listing patients' personal information in hospital directories, often without their full understanding, can lead to exposing individuals to threatening situations. Those facing sensitive circumstances, such as immigration issues, domestic violence, and human trafficking, deserve to feel protected when seeking health treatment. AB

¹ 45 C.F.R. § 164.510.

² *Ibid.*

894 will give vulnerable patients the power to make an informed choice about whether their personal information should be accessible, ensuring that they are not put in a potentially dangerous situation. We must send a clear message to our most marginalized Californians that their right to privacy and safety is a top priority, regardless of their background. As lawmakers, it is our responsibility to guarantee that every patient seeking treatment can safely do so.

President Trump, since re-entering the office, has promised to ramp up immigration enforcement and greatly increase deportations. Already, he has attempted to make due on this promise, through various executive actions that have declared a national emergency at the southern border, halted refugee admission, expanded who immigration enforcement officers can prioritize for deportation, expanded expedited removal, increased the hiring of immigration officers, and expanded immigration detention. In addition, the Trump Administration ended long-standing federal policy that limited immigration enforcement activity at “sensitive locations” like schools, places of worship, courthouses, and healthcare facilities.³ Reports have shared horrific stories of immigration enforcement officers detaining children in their hospital rooms and deporting the family of a 10-year-old U.S. Citizen with brain cancer as they were on the way to the hospital for an emergency check up.⁴

This bill takes a small step toward protecting the privacy of all Californians when they find themselves in general acute care hospitals.

³ See Benjamine C. Huffman, Memorandum: Enforcement Actions in or Near Protected Areas, Dept. of Homeland Sec. (Jan. 20, 2025), <https://www.nafsa.org/regulatory-information/dhs-rescinds-biden-protected-areas-enforcement-policy>; James A. Puleo, Memorandum: Enforcement Activities at Schools, Places of Worship, or at funerals or other religious ceremonies, Imm. & Nationality Svcs., HQ 807-P (May 17, 1993); Dept. of Homeland Sec., Secretary Mayorkas Issues New Guidance for Enforcement Action at Protected Areas (Oct. 27, 2021), <https://www.dhs.gov/archive/news/2021/10/27/secretary-mayorkas-issues-new-guidance-enforcement-action-protected-areas>.

⁴ Barbara Campbell, *Girl detained by border patrol after emergency surgery released to parents* (Nov. 3, 2017) NPR, <https://www.npr.org/sections/thetwo-way/2017/11/03/562003841/girl-detained-by-border-patrol-after-emergency-surgery-is-released-to-parents#:~:text=Climate-Rosa%20Maria%20Hernandez%2C%20Girl%20Held%20By%20Border%20Patrol%20After%20Surgery,ho used%20away%20from%20her%20family>; Nicole Acevedo, *U.S. Citizen child recovering from brain cancer removed from Mexico with undocumented parents* (Mar. 13, 2025) NBC News <https://www.nbcnews.com/news/latino/us-citizen-child-recovering-brain-cancer-deported-mexico-undocumented-rcna196049>.

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: SB 81 (Arreguín, 2025) prohibits a health care provider entity and its personnel, to the extent permitted by state and federal law and to the extent possible, from granting access to the nonpublic areas of the facility for immigration enforcement without a valid judicial warrant or court order. SB 81 is currently pending before the Assembly Health Committee.

Prior Legislation: SB 54 (De León, Ch. 495, Stats. 2017) prohibited state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, subject to exception, and required the issuance and adoption by various entities of model policies limiting assistance with immigration enforcement and limiting the availability of information for immigration enforcement.

PRIOR VOTES:

Senate Health Committee (Ayes 10, Noes 0)

Assembly Floor (Ayes 71, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Health Committee (Ayes 16, Noes 0)
