

CONCURRENCE IN SENATE AMENDMENTS

AB 2520 (Chiu)

As Amended June 26, 2020

Majority vote

SUMMARY:

Entitles an employee of a nonprofit legal services entity representing a patient, to a copy, at no charge, of the relevant portion of the patient's records that are needed to support a claim regarding eligibility for specified public benefit programs. Requires a health care provider to provide an employee of a nonprofit legal services entity representing the patient a copy of the medical records at no charge under those conditions, and would include speech-language pathologists, audiologists, physician assistants, and nurse practitioners within the definition of a health care provider. Expands the definition of a public benefit program to include the discharge of a federal student loan based on total and permanent disability, Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI), and a government-funded housing subsidy or tenant-based housing assistance program. Requires a health care provider to provide the records at no charge upon proof that the records are needed for a petition for nonimmigrant status under the Victims of Trafficking and Violence Protection Act (visa status for victims of certain crimes), or a self-petition for lawful permanent residency under the Violence Against Women Act.

The Senate Amendments:

Deletes a provision that allowed a health care provider to substitute a similar form or record, as specified, if the public benefit program allows for other methods of providing the information requested.

COMMENTS:

- 1) *Eligible Public Benefits Program.* Existing law entitles a patient or the representative of a patient to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider proof that the records are needed to support an appeal regarding eligibility for the Medi-Cal program, social security disability insurance benefits, and SSI/SSP IHSS, CalFresh, CalWORKs, veteran benefits. This bill expands the provision of free medical records to applicants of the following benefit programs:
 - a) The discharge of a federal student loan based on total and permanent disability. Total and Permanent Disability discharge is a program created by the United States (US) Department of Education. It relieves the disabled borrower from having to repay federal student loans or TEACH Grant service obligations.
 - b) CAPI. CAPI is a 100% state-funded program designed to provide monthly cash benefits to aged, blind, and disabled non-citizens who are ineligible for SSI/SSP solely due to their immigrant status. The Welfare Reform Act of 1996 eliminated SSI/SSP eligibility for most non-citizens. As a result, most immigrants who were not receiving SSI/SSP in August 1996 are no longer eligible for SSI/SSP.
 - c) Government-funded housing subsidy or tenant-based housing assistance program. According to the US Department of Housing and Development (HUD), HUD can assist with privately owned subsidized housing and help. Apartment owners offer reduced rents

to low-income tenants. The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects. Housing choice vouchers are administered locally by public housing agencies (PHAs). The PHAs receive federal funds from HUD to administer the voucher program.

- 2) *U nonimmigrant status and Violence Against Women Act.* In addition to public benefits program, this bill expands the provision of free medical records to a petition for U nonimmigrant status under the Victims of Trafficking and Violence Protection Act or a self-petition for lawful permanent residency under the Violence Against Women Act. The U nonimmigrant status (U visa) is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. Congress created the U nonimmigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity. The legislation also helps law enforcement agencies to better serve victims of crimes. Additionally, under the federal Violence Against Women Act, individuals may be eligible to become a lawful permanent resident if you are the victim of battery or extreme cruelty committed by:
 - a) A United States (U.S.) citizen spouse or former spouse;
 - b) A U.S. citizen parent;
 - c) A U.S. citizen son or daughter;
 - d) A lawful permanent resident (LPR) spouse or former spouse; or
 - e) An LPR parent.
- 3) *Federal guidance.* The U.S. Department of Health and Human Services issued guidance which state in part, while the Privacy Rule permits a limited fee as described; covered entities should provide individuals who request access to their information with copies of their personal health information free of charge. While covered entities should forgo fees for all individuals, not charging fees for access is particularly vital in cases where the financial situation of an individual requesting access would make it difficult or impossible for the individual to afford the fee. Providing individuals with access to their health information is a necessary component of delivering and paying for health care.

According to the Author:

Applying for a public benefit program is often a complicated process that requires the submission of medical records to prove a disability or medical condition. Applicants turn to legal

aid advocates for help when their applications are denied or need additional assistance. In assisting low-income clients, legal aid advocates have reported difficulty obtaining medical records without cost and are denied access because they do not have formal authority to receive the records. For example, some health facilities require a "power of attorney" to receive records on behalf of a client. "Power of attorney," however, allows an individual to make legal, financial, and health decisions on behalf of another person, so it is not an appropriate designation for legal aid advocates who are only representing clients on a public benefits issue. The author states that when applying for public benefit program, low-income people also face barriers in completing forms to certify their disability or medical condition. Some healthcare providers refuse to complete these forms or charge a minimum of \$40 to complete them. Without medical records and completed forms from their healthcare providers, applicants may not receive public benefits.

According to the author, this bill is an essential bill that will help low-income Californians access public benefit programs by making easier access to medical records needed to qualify for such programs. This includes clarifying that legal aid advocates can access medical records without cost for patients regarding eligibility for public benefits programs, including the Cash Assistance Program for Immigrants, victims of domestic violence, immigrant victims of crime, and beneficiaries of government-funded housing subsidies or tenant-based housing assistance programs. The author states that by streamlining access to medical records, this bill increases access to public benefit programs and helps build a California for all.

In light of the pandemic severely exacerbating income inequality, it is more important than ever that we protect our most vulnerable communities by simplifying and expanding access to public benefits for those who desperately need them. This bill would improve access to California's social safety net at a time when millions of Californians must rely on it.

Arguments in Support:

Western Center on Law and Poverty, sponsor of this bill, writes that this bill clarifies that legal aid advocates can access medical records without cost on behalf of patients who need these records to maintain their benefits. To further ensure individuals can maintain their benefits, this bill would require providers to complete these forms where medical input is needed. Applying and maintaining eligibility for a public benefit program can be a complicated process that requires submission of medical records to prove a disability or medical condition. Applicants turn to legal aid advocates for help when their applications are denied or need additional assistance. When applying for public benefit programs, low-income people face barriers in completing forms to certify their disability or medical condition. Some health care providers refuse to complete these forms or charge a minimum of \$40 to complete them. This bill would expand access to free medical records to include programs serving immigrants with disabilities, petitions to obtain lawful status for immigrants who are survivors of crime or domestic violence, and individuals applying for government-funded housing assistance programs

Arguments in Opposition:

There is no known opposition.

FISCAL COMMENTS:

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:**ASM HEALTH: 15-0-0**

YES: Wood, Mayes, Aguiar-Curry, Bigelow, Bonta, Burke, Carrillo, Flora, Limón, McCarty, Nazarian, Ramos, Rodriguez, Santiago, Waldron

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

ASSEMBLY FLOOR: 76-0-3

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Brough, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Chu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Obernolte, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon
ABS, ABST OR NV: Low, Muratsuchi, Quirk

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
ABS, ABST OR NV: Jones

UPDATED:

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CONSULTANT: Kristene Mapile / HEALTH / (916) 319-2097

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