

SENATE THIRD READING

SB 278 (Cabaldon)

As Amended

Majority vote

SUMMARY

This bill expands the circumstances under which personally identifying Human Immunodeficiency Virus (HIV) test results may be shared without specific consent from a patient, to allow data-sharing of HIV test results with the Department of Health Care Services (DHCS) and a Medi-Cal managed care plan, for purposes of implementing quality improvement programs designed to improve HIV care for Medi-Cal beneficiaries.

COMMENTS

HIV in California. HIV is a virus that attacks the body's immune system. Without treatment, it can lead to AIDS. In California, HIV is mostly transmitted through sexual contact and, to a lesser extent, through injection drug use, although there are other, less common transmission routes such as perinatal transmission (from a birthing parent to a child). Although there is no cure for HIV, it can be effectively treated and the "viral load" (the amount of the virus present in the body) can be controlled. Surveillance and prevention of HIV transmission and treatment for HIV/AIDS are significant public health challenges worldwide. In California, the Department of Public Health (DPH) Office of AIDS works with local health jurisdictions to collect, analyze, and disseminate surveillance data on people living and diagnosed with HIV in California. DPH receives laboratory data on HIV tests, which are reported to local and state public health agencies on a mandatory basis.

Despite national, state, and local public health efforts over the last decade to "get to zero" new HIV infections, California still has a significant number of new infections annually. According to DPH, the number of new diagnoses increased by 6.0%, from 4,669 in 2019 to 4,948 in 2023, while the rate of new diagnoses per 100,000 population increased by 5.1%, from 11.7 to 12.3 during the same time period.

Of the 143,254 people in California living with diagnosed HIV infection in 2023, 75.1% were in HIV care and 66.5% achieved viral suppression. Viral suppression in HIV-positive individuals, through treatment with HIV drugs, is critical to prevent new infections because a person living with HIV who is being treated and maintains an undetectable viral load has zero risk of transmitting HIV to their sexual partners. This concept is sometimes called "Undetectable = Untransmittable," or "U=U". "Ending the HIV Epidemic in the US," a federal effort of the Centers for Disease Control and Prevention (CDC) as of late 2024, had a goal of increasing linkage to care and viral suppression to 95% of HIV-positive individuals.

HIV disproportionately affects certain groups of people. Over 80% of people newly diagnosed with HIV infection in California from 2019-2023 were men. Men who have sex with men (MSM) make up a shrinking but still-large share of all the people newly diagnosed (falling from about 72% in 2019 to about 62% in 2023). According to the "*Ending The Epidemics: Implementation Blueprint*" published by DPH in 2023, people who are Black/African Americans are more likely to be living with diagnosed HIV than any other race/ethnicity in California compared to their population size (this group makes up 17% of people with HIV despite representing only 6% of the population in California). As of 2019, a disproportionate number of

new HIV infections are among Black (17% of new infections vs. 6% population size) and Latino (50% of new infections vs. 39% population size) Californians. Young Black and Latino gay and bisexual men and Black heterosexual women are becoming infected with HIV at especially high rates. Transgender women were overrepresented among new HIV diagnoses in 2019, especially transgender women of color.

Data-Sharing Restrictions. California law severely restricts the sharing and disclosure of HIV-related data and includes specific penalties for unauthorized disclosure. These HIV-specific restrictions have been put in place over the years to protect people living with HIV from undesired disclosure of their HIV status. According to *"Forty Years of HIV: The Intersection of Laws, Stigma, and Sexual Behavior and Identity,"* a 2021 article published in the American Journal of Public Health, since its initial identification in the early 1980's, HIV brought widespread fear and stigmatizing laws and policies, and the crisis revealed injustices in existing laws that compounded stigma and health disparities among the most affected groups, including communities of gay and bisexual men and other MSM and people who inject drugs.

Although general federal and state medical privacy and confidentiality laws, as well as HIV-specific laws, offer protection against undesired disclosure of a person's HIV status, the inability to share data can sometimes pose difficulties for health care and public health entities looking to identify, prevent, and treat HIV. This bill creates a narrow exception to certain California data-sharing restrictions to facilitate better care for HIV-positive people in Medi-Cal managed care.

Public Health and Health Care Collaboration. Respected national bodies have promoted the idea of partnership between public health and health care to improve public health outcomes. The National Academy of Medicine issued a report in 2012, *"Primary Care and Public Health: Exploring Integration to Improve Population Health,"* which made the case for tighter integration of public health and health care to improve public health. The Centers for Disease Control and Prevention (CDC) Office of Policy, Performance, and Evaluation, as of December 2024, specifically endorses the approach of partnership with the health care system to promote health care quality measures that promote progress toward public health goals. For instance, one of the priority health care quality measures listed is "Hepatitis C Virus (HCV) Screening and Treatment Initiation." Improvements on such a metric (a health care measure) can potentially reduce preventable mortality by slowing and eliminating the spread of HCV (a public health goal).

In California, many of the Managed Care Accountability Set (MCAS) measures and DHCS "Bold Goals" address issues important to public health, including sexually transmitted infection (STI) screening, cancer screening, timely prenatal care, and immunizations, among others. By allowing disclosure of HIV test result data to DHCS and managed care plans, this bill would create the conditions necessary to implement similar quality measurement and reporting related to HIV. For instance, DHCS could incentivize plans to meet a health care quality metric that would measure viral load suppression, which would in turn meet the public health goal of reducing HIV transmission.

Medi-Cal Comprehensive Quality Strategy and Managed Care Quality Improvement Programs. DHCS implements a number of quality improvement efforts: measuring quality performance, identifying priority metrics, and implementing a "carrot and stick" approach—financial incentives and other rewards, coupled with minimum performance levels and sanctions. DHCS's wide-ranging 2022 Comprehensive Quality Strategy outlines specific clinical goals across the

Medi-Cal program and creates "Bold Goals" for quality metrics related to children's preventive care, maternal care, and behavioral health follow-up. The document includes additional high-priority goals with measurable targets for each managed care delivery system (Medi-Cal managed care, behavioral health, and dental). DHCS currently does not include an HIV-related metric among their priority quality measures.

Louisiana Quality Improvement Program for HIV Viral Suppression. In 2016, Louisiana's Medicaid agency began withholding a portion of its payments to managed care plans unless they achieved or made progress toward a target viral suppression rate among their members. The state reports 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. Since 2016, information from the program shows that the viral suppression rate among Louisiana's Medicaid enrollees has increased from 67% to 80%.

According to the Author

Nearly one-third of Californians living with HIV rely on Medi-Cal. Yet, about one in four of these individuals are not receiving essential care, such as viral load testing. The author notes that under current law, Medi-Cal managed care plans are restricted from accessing key tools that could improve health outcomes. Specifically, incentive programs, such as value-based payment programs that reward quality improvement, cannot be used to support HIV-positive Medi-Cal recipients due to restrictions on sharing of HIV test results. This restriction prevents providers from utilizing performance-based funding to enhance care for this vulnerable population. The author indicates this bill 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. The author concludes that this change will ensure that Medi-Cal enrollees living with HIV can benefit from the same incentive-driven improvements in care as other patients.

Arguments in Support

The sponsor of the bill, the San Francisco AIDS Foundation (SFAF), notes that despite medical advances that can prevent HIV transmission through viral suppression, in California, more than 50,000 people living with HIV are not virally suppressed. SFAF writes this bill is thoughtfully constructed to achieve its goal of improving HIV care for Medi-Cal patients without increasing patients' risk of harm. The Sacramento LGBT Center writes in support that we must use every tool at our disposal to end the epidemic.

Arguments in Opposition

None.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, no state costs.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio,

Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Limón, Reyes

ASM HEALTH: 15-0-1

YES: Bonta, Chen, Addis, Aguiar-Curry, Caloza, Carrillo, Flora, Mark González, Krell, Patel, Patterson, Celeste Rodriguez, Sanchez, Schiavo, Sharp-Collins

ABS, ABST OR NV: Stefani

ASM PRIVACY AND CONSUMER PROTECTION: 15-0-0

YES: Bauer-Kahan, Dixon, Bryan, DeMaio, Irwin, Lowenthal, Macedo, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Ward, Wicks, Wilson

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

UPDATED

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