



April 24, 2025

The Honorable Ash Kalra
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

SUBJECT: AB 302 (Bauer-Kahan) — OPPOSE UNLESS AMENDED

Dear Assemblymember Kalra:

Hospitals are deeply committed to protecting patient privacy and the confidentiality of personal health information. Every day, patients place their trust in hospitals, often during their most vulnerable moments, and hospitals take their confidentiality responsibilities seriously. Safeguarding patient data is not only a legal obligation — it is a core part of our mission to provide safe, respectful, and compassionate care. California’s hospitals adhere to rigorous federal and state privacy laws, and continuously invest in systems, training, and protocols to ensure that patient information remains secure. **However, the California Hospital Association (CHA), on behalf of more than 400 hospitals and health systems, must oppose Assembly Bill (AB) 302 unless amended because it would eliminate a patient’s right to require that their health information be sent directly to a third party of their choosing, in violation of federal law.**

The federal Health Information Technology for Economic and Clinical Health (HITECH) Act requires a hospital, doctor, or other Health Insurance Portability and Accountability Act-covered (HIPAA) entity to comply with a patient’s direction to transmit their health information to another person. Specifically, 42 U.S.C. Section 17935(e) states:

[T]he individual shall have a right to obtain from such covered entity a copy of such information in an electronic format and, if the individual chooses, to direct the covered entity to transmit such copy directly to an entity or person designated by the individual, provided that any such choice is clear, conspicuous, and specific...

Furthermore, the Biden administration declined a request to limit a patient’s right to direct that their information be sent to a third party, stating that:

[Even] if the Department [of Health and Human Services] were to finalize the proposed limitation on uses and disclosures with [a patient’s] authorization, the individual would retain the individual access “right to direct,” which is enshrined in statute. We also believe it would be inconsistent with the spirit of individual access “right to direct” for the

Department to limit the ability of an individual to authorize a regulated entity to disclose their PHI to another person [90 Fed. Reg. 32976, 3308 (Apr. 26, 2024)].

HIPAA preempts state law to the extent that HIPAA gives the patient more control over their own health information than state law does. Therefore, the proposed change to Civil Code Sections 56.10(d) and (e), if enacted, would be preempted by federal law, rendering them invalid.

Even if HIPAA did not preempt the proposed revision to Civil Code Sections 56.10(d) and (e), individuals must be allowed to require hospitals and doctors to transmit their health information (or the health information of their deceased family member) directly to entities that are not listed in Civil Code Sections (b) or (c). For example, patients often ask that their medical record be transmitted to the Social Security Administration so they can qualify for Social Security disability benefits. Similarly, a person making a claim for accidental death benefits may need to submit their deceased spouse's medical record to an accidental death insurance company. These are but two examples illustrating why patients must have control over their medical records.

For these reasons, CHA opposes AB 302 unless amended to address these concerns.

We would welcome the opportunity to discuss these issues further and explore collaborative solutions that protect patients without limiting their control over their own health information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Farouk', with a long horizontal flourish extending to the right.

Mark Farouk
Vice President, State Advocacy

cc: The Honorable Rebecca Bauer-Kahan
The Honorable Members of the Assembly Judiciary Committee
Alison Merrilees, Consultant, Assembly Judiciary Committee
Daryl Thomas, Consultant, Assembly Republican Caucus