

AGENDA ITEM 12

DISCUSSION AND CONSIDERATION OF TAKING A POSITION ON PENDING LEGISLATION.

Attached are the following bills:

- A. AB 258 (Chavez), State agencies: veterans.
- B. AB 291 (Nestande), California Sunset Review Commission.
- C. AB 376 (Donnelly), regulations: notice.
- D. AB 518 (Yamada and Blumenfield), Community-based adult services.
- E. AB 772 (Jones), Department of Consumer Affairs: intervention in state agency or court proceedings.
- F. AB 1310, (Brown), Medi-Cal: pediatric subacute care.
- G. SB 176 (Galgiani), Administrative procedures.
- H. SB 690 (Price), Licenses.

BILL NUMBER: AB 258 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 23, 2013

INTRODUCED BY Assembly Member Chávez

FEBRUARY 7, 2013

An act to add Section 11019.11 to the Government Code, relating to state agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 258, as amended, Chávez. State agencies: veterans.

Existing law provides for the governance and regulation of state agencies, as defined. Existing law provides certain benefits and protections for members of the Armed Forces of the United States.

This bill would require , on or after July 1, 2014, every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, to request that information in a specified manner.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11019.11 is added to the Government Code, to read:

11019.11. (a) Every state agency that requests on any written form or written publication, or through its Internet Web site, whether a person is a veteran, shall request that information only in the following format: "Have you ever served in the *United States* military?"

(b) This section shall apply only to a written form or written publication that is newly printed on or after ~~January~~
July 1, 2014.

BILL NUMBER: AB 291 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Nestande

FEBRUARY 11, 2013

An act to amend and repeal Sections 9147.7, 9148.50, 9148.51, and 9148.52 of, to amend, repeal, and add Section 9148.8 of, and to add Article 7.6 (commencing with Section 9147.9) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as introduced, Nestande. California Sunset Review Commission.

Existing law establishes the Joint Sunset Review Committee, a legislative committee comprised of 10 Members of the Legislature, to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every "eligible agency" for which a date for repeal has been established, to determine if the agency is still necessary and cost effective. Existing law requires each eligible agency scheduled for repeal to submit a report to the committee containing specified information. Existing law requires the committee to take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed, and requires that an eligible agency be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the agency. Existing law also requires the committee to review eligible agencies and evaluate and determine whether each has demonstrated a public need for its continued existence and to submit a report to the Legislature detailing whether an agency should be terminated, continued, or whether its functions should be modified.

This bill would abolish the Joint Sunset Review Committee on January 1 or an unspecified year. The bill would, commencing on that same January 1, establish the California Sunset Review Commission within the executive branch to assess the continuing need for any agency, as defined, to exist. The commission would consist of 10 members, with 8 members appointed by the Governor and 2 Members of the Legislature each appointed by the Senate Committee on Rules and the Speaker of the Assembly, subject to specified terms. The commission would be under the direction of a director appointed by the commission members. The bill would require the commission to meet regularly and to work with each agency subject to review to evaluate the need for the agency to exist, identify required statutory, regulatory, or management changes, and develop legislative proposals to enact those changes. The bill would require the commission to prepare a report, containing legislative recommendations based on its agency review, to be submitted to the Legislature and would also require the commission to meet certain cost-savings standards within 5 years.

This bill would require an agency to submit a specified self-evaluation report to the commission prior to its review. The bill would require the Legislative Analyst's Office to provide the

commission with an estimate of the staffing needed to perform the commission's work.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 9147.7 of the Government Code is amended to read:

9147.7. (a) For the purpose of this section, "eligible agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

(1) The purpose and necessity of the agency.

(2) A description of the agency budget, priorities, and job descriptions of employees of the agency.

(3) Any programs and projects under the direction of the agency.

(4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.

(5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the

committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

(h) This section shall remain in effect only until January 1, 20__, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 20__, deletes or extends that date.

SEC. 2. Article 7.6 (commencing with Section 9147.9) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 7.6. California Sunset Review Commission

9147.9. This article may be cited as the California Sunset Review Commission Act.

9147.11. For the purpose of this section, the following definitions shall apply:

(a) "Agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education.

(b) "Commission" means the California Sunset Review Commission.

(c) "Act" means the California Sunset Review Commission Act.

9147.13. The California Sunset Review Commission is hereby created within the executive branch of state government. The commission shall be located in Sacramento.

9147.15. (a) The commission shall consist of 10 members.

(1) The Governor shall appoint 8 members to serve a term of four years.

(2) The Senate Committee on Rules shall appoint one Member of the Senate to serve a term of two years or until that Member is no longer a Member of the Senate, whichever is applicable.

(3) The Speaker of the Assembly shall appoint one Member of the Assembly to serve a term of two years or until that Member is no longer a Member of the Assembly, whichever is applicable.

(b) The commission shall appoint a chairperson from its members appointed pursuant to paragraph (1).

(c) The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature.

(d) A vacancy on the commission shall be filled in the same manner as the original appointment.

(e) (1) The members of the commission shall serve without compensation, except that each member appointed by the Governor shall receive fifty dollars (\$50) for each day's attendance at a meeting of the commission.

(2) Each member shall be allowed actual expenses incurred in the

discharge of his or her duties, including travel expenses.

9147.17. (a) The commission shall be under the direction of a director appointed by the commission members.

(b) The director shall employ sufficient staff to carry out the commission's responsibilities.

(c) The Legislative Analyst's Office shall estimate the staffing needed to manage the workload of the commission.

9147.19. (a) The commission shall serve in an advisory capacity and shall meet regularly to assess and review the continuing need for an agency to exist.

(b) Prior to the commission's review of an agency, the commission staff shall work with each agency to evaluate the need for the agency to exist, identify required statutory, regulatory, or management changes, and develop recommendation for legislative proposals to enact those changes. The commission shall also consult with interest groups, affected agencies, and other interested parties in reviewing an agency.

(c) In carrying out its duties pursuant to this section, the commission shall evaluate an agency pursuant to the following criteria, as applicable:

(1) The efficiency and effectiveness of the agency's operations.

(2) Whether the agency has been successful in achieving its mission, goals, and objectives.

(3) Whether the agency performs duties that are not statutorily authorized and, if so, identify the authority for those activities and whether those activities are needed.

(4) Whether the agency has any authority related to fees, inspections, enforcement, and penalties.

(5) Whether the agency's functions and operations could be less burdensome or restrictive while still serving the public.

(6) Whether the functions of the agency could be effectively consolidated or merged with another agency to promote efficiency in government.

(7) Whether the agency's programs and jurisdiction duplicate those of other state agencies.

(8) Whether the agency promptly and effectively addresses complaints.

(9) Whether the agency utilizes public participation for rulemaking and decisions and, if so, whether it is done in an effective manner.

(10) Whether the agency complied with federal and state requirements regarding equal employment, privacy rights, and purchasing guidelines for underutilized businesses.

(11) Whether the agency effectively enforces rules regarding the potential conflicts of interest of its employees.

(12) Whether abolishing the agency would cause federal government intervention or loss of federal funds.

(13) Whether the agency's statutory reporting requirements effectively fulfill a useful purpose; and whether there are reporting requirements of this agency that are duplicative of other agencies or can effectively be combined or consolidated into another agency that has similar requirements.

(d) The commission shall take public testimony from agency staff, interest groups, and affected parties relating to whether an agency should continue in existence.

(e) (1) The commission shall prepare a staff report to be submitted to the Legislature. The report shall include, but not be limited to, specific recommendations to the Legislature to enact legislation to do the following:

(A) Repeal unnecessary, outdated, or unnecessary statutes,

regulations, and programs.

(B) Develop reorganization plans that abolish and streamline existing agencies, if needed.

(2) A report to the Legislature pursuant to this section shall be submitted in compliance with Section 9795.

(3) This subdivision shall become inoperative on January 1, 2018, pursuant to Section 10231.5

9147.21. Prior to review by the commission, an agency shall submit a self-evaluation report to the commission. The report shall include, but not be limited to, the criteria described in subdivision (c) of Section 9147.19.

9147.23. In order to ensure accountability, the commission shall demonstrate a 5-to-1 cost savings within the first five years of sunset review hearings, and every five years thereafter. For every dollar it costs to run the commission, five dollars (\$5) shall be saved in streamlining the government process and eliminating unnecessary agencies.

9147.25. This article shall become operative on January 1, 20__.

SEC. 3. Section 9148.8 of the Government Code is amended to read:

9148.8. (a) The appropriate policy committee of the Legislature may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6. The chairperson of a policy committee may alternatively require that the Joint Sunset Review Committee evaluate and provide recommendations on any plan prepared pursuant to Section 9148.4 or 9148.6, or any other legislative issue or proposal to create a new state board.

(b) The Joint Sunset Review Committee shall provide to the respective policy and fiscal committees of the Legislature any evaluation and recommendations prepared pursuant to this section.

(c) If an appropriate policy committee does not evaluate a plan prepared pursuant to Section 9148.6, then the Joint Sunset Review Committee shall evaluate the plan and provide recommendations to the Legislature.

(d) This section shall remain in effect only until January 1, 20__, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 20__, deletes or extends that date.

SEC. 4. Section 9148.8 is added to the Government Code, to read:

9148.8. (a) The appropriate policy committee of the Legislature may evaluate a plan prepared pursuant to Section 9148.4 or 9148.6. The chairperson of a policy committee may alternatively require that the California Sunset Review Commission evaluate and provide recommendations on any plan prepared pursuant to Section 9148.4 or 9148.6, or any other legislative issue or proposal to create a new state board.

(b) The California Sunset Review Commission shall provide to the respective policy and fiscal committees of the Legislature any evaluation and recommendations prepared pursuant to this section.

(c) If an appropriate policy committee does not evaluate a plan prepared pursuant to Section 9148.6, then the California Sunset Review Commission shall evaluate the plan and provide recommendations to the Legislature.

This section shall become operative on January 1, 20__.

SEC. 5. Section 9148.50 of the Government Code is amended to read:

9148.50. The Legislature finds and declares all of the following:

(a) California's multilevel, complex governmental structure today contains more than 400 categories of administrative or regulatory boards, commissions, committees, councils, associations, and

authorities.

(b) These administrative or regulatory boards, commissions, committees, councils, associations, and authorities have been established without any method of periodically reviewing their necessity, effectiveness, or utility.

(c) As a result, the Legislature and residents of California cannot be assured that existing or proposed administrative or regulatory boards, commissions, committees, councils, associations, and authorities adequately protect the public health, safety, and welfare.

(d) *This section shall remain in effect only until January 1, 20__, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 20__, deletes or extends that date.*

SEC. 6. Section 9148.51 of the Government Code is amended to read:

9148.51. (a) It is the intent of the Legislature that all existing and proposed eligible agencies, as defined in subdivision (a) of Section 9147.7, be subject to review to evaluate and determine whether each has demonstrated a public need for its continued existence in accordance with enumerated factors and standards as set forth in Article 7.5 (commencing with Section 9147.7).

(b) If any state board becomes inoperative or is repealed in accordance with the act that added this section, any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that state board is inoperative or repealed.

(c) Any provision of law authorizing the appointment of an executive officer by a state board subject to the review described in Article 7.5 (commencing with Section 9147.7), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable state board is inoperative or repealed.

(d) *This section shall remain in effect only until January 1, 20__, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 20__, deletes or extends that date.*

SEC. 7. Section 9148.52 of the Government Code is amended to read:

9148.52. (a) The Joint Sunset Review Committee established pursuant to Section 9147.7 shall review all eligible agencies.

(b) The committee shall evaluate and make determinations pursuant to Article 7.5 (commencing with Section 9147.7).

(c) Pursuant to an evaluation made as specified in this section, the committee shall make a report which shall be available to the public and the Legislature on whether an agency should be terminated, or continued, or whether its functions should be revised or consolidated with those of another agency, and include any other recommendations as necessary to improve the effectiveness and efficiency of the agency. If the committee deems it advisable, the report may include proposed legislative proposals that would carry out its recommendations.

(d) *This section shall remain in effect only until January 1, 20__, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 20__, deletes or extends that date.*

BILL NUMBER: AB 376 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Donnelly

FEBRUARY 14, 2013

An act to add Section 11344.5 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 376, as introduced, Donnelly. Regulations: notice.

The Administrative Procedure Act requires the Office of Administrative Law to provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which is known as the California Code of Regulations, provide for a weekly update of the California Code of Regulations, and provide for the publication of the California Regulatory Notice Register, which includes, but is not limited to, a summary of all proposed regulations filed with the Secretary of State in the previous week.

This bill would require a state agency enforcing a regulation promulgated on or after January 1, 2014, to notify a business that is required to comply with that regulation of the existence of the regulation 30 days before its effective date, and to cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide that notice.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11344.5 is added to the Government Code, to read:

11344.5. (a) An agency enforcing a regulation promulgated on or after January 1, 2014, shall notify a business that is required to comply with that regulation of the existence of the regulation 30 days before the effective date of the regulation.

(b) If possible, an agency shall provide the notice required pursuant to subdivision (a) by electronic mail, and if not possible, then by written letter through the United States mail.

(c) An agency required to provide notice pursuant to this section shall cooperate with the Secretary of State to access business records to obtain the business contact information necessary to provide the notice.

BILL NUMBER: AB 518 AMENDED
 BILL TEXT

AMENDED IN ASSEMBLY APRIL 11, 2013

INTRODUCED BY Assembly Members Yamada and Blumenfield
 (Coauthors: Assembly Members
 Ammiano, Brown, Chesbro, and
 Ting)

FEBRUARY 20, 2013

An act to add Article 7 (commencing with Section 14590.10) to Chapter 8.7 of Part 3 of Division 9 of , and to repeal Section 14590.20 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 518, as amended, Yamada. Community-based adult services.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent permitted by federal law, that adult day health care (ADHC) be excluded from coverage under the Medi-Cal program.

This bill would establish the Community-Based Adult Services (CBAS) program, as specified, as a Medi-Cal benefit. The bill would require CBAS providers to meet specified requirements and would require the department to, commencing July 1, 2015, ~~only~~ certify and enroll as new CBAS providers *only those providers* that are exempt from taxation as a nonprofit entity.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) California supports the right for all to live in the most integrated and community-based setting appropriate, and to be free from unnecessary institutionalization.

(b) California's adult day services have experienced significant instability in recent years due to substantial policy reforms and budget reductions.

(c) For many years, Adult Day Health Care (ADHC) was a state plan optional benefit of the Medi-Cal program, offering seniors and adults with significant disabilities and medical needs an integrated medical and social services model of care that helped these individuals continue to live outside of nursing homes or other institutions.

(d) At its peak in 2004, over 360 adult day health care centers provided care to over 40,000 medically fragile Californians.

(e) The Budget Act of 2011 and the related trailer bill, Chapter 3

of the Statutes of 2011, eliminated ADHC as a Medi-Cal benefit. As codified in Article 6 (commencing with Section 14589) of Chapter 8.7 of Part 3 of Division 9 of the Welfare and Institutions Code, the Legislature's intent in supporting the elimination of ADHC was that it would be replaced by a smaller, less costly, yet very similar, program. The Legislature sent Assembly Bill 96 of the 2011-12 Regular Session to the Governor to create such a program and the Governor vetoed the bill.

~~(f) Advocacy organizations sued the state, in Darling v. Douglas, which was resolved through a legal settlement (Case No. C-09-03798 SBA, United States District Court, Northern District of California), which is the basis for the existing CommunityBased Adult Services (CBAS) program, a smaller, less costly version of ADHC.~~

(f) Seven plaintiffs filed suit against the State Department of Health Care Services seeking relief for violation of, among other laws, due process guaranteed by the United States Constitution, Title II of the federal Americans with Disabilities Act, and Title XIX of the federal Social Security Act. On November 17, 2011, the state and plaintiffs settled the lawsuit (Case No. C-09-03798 SBA, United States District Court, Northern District of California), which is the basis for the existing Community-Based Adult Services (CBAS) program, a smaller, less costly version of ADHC.

(g) Adult day services and CBAS programs remain a source of necessary skilled nursing, therapeutic, personal care, supervision, health monitoring, and caregiver support.

(h) The changes forecast in the state's demographics demonstrate a rapidly aging population, at least through the year 2050, thereby increasing the need and demand for integrated, community-based services.

(i) A well-defined and well-regulated system of CBAS is essential in order to meet the rapidly changing needs of California's diverse and aging population.

(j) Codifying the ~~Darling v. Douglas~~ CBAS settlement agreement ~~principles~~ will ensure that thousands of disabled and frail Californians who relied upon adult day health programs ~~and are eligible for CBAS~~ will be able to remain independent and free of institutionalization for as long as possible.

SEC. 2. Article 7 (commencing with Section 14590.10) is added to Chapter 8.7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 7. Community-Based Adult Services

14590.10. It is the intent of the Legislature in enacting this article and related provisions to provide for the development of *Medi-Cal* policies and programs that continue to accomplish all of the following:

(a) Ensure that elderly persons and adults with disabilities are not institutionalized inappropriately or prematurely.

(b) Provide a viable alternative to institutionalization for those elderly persons and adults with disabilities who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.

(c) Promote adult day health options, including Community-Based Adult Services (CBAS), that will be easily accessible to economically disadvantaged elderly persons and adults with disabilities, and that will provide outpatient health, rehabilitative, and social services

necessary to permit the participants to maintain personal independence and lead meaningful lives.

(d) Ensure that all laws, regulations, and procedures governing CBAS are enforced equitably regardless of organizational sponsorship and that all program flexibility provisions are administered equitably.

(e) Ensure programmatic standards are codified to offer certainty to providers and regulators.

(f) Compliance with the Special Terms and Conditions of California's Bridge to Reform Section 1115(a) Medicaid Demonstration (11-W-00193/9) ~~and provisions of the Darling v. Douglas settlement agreement~~, including, but not limited to, all of the following:

(1) Processes and criteria to determine eligibility for receiving CBAS.

(2) Processes and criteria to reauthorize eligibility for CBAS.

(3) Utilization of the CBAS assessment tool.

(4) Provisions relating to enrollee due process.

(5) Requirements that plans contract with CBAS providers and pay providers at the prevailing Medi-Cal fee-for-service rate.

(6) Appeals and other state and federal protections.

(7) Aid-paid-pending that provides for payment of services during any appeal process, and CBAS provider qualifications.

14590.11. For purposes of this article, all of the following terms shall have the following meanings:

(a) "Community-Based Adult Services" or "CBAS" means an outpatient, facility-based program that delivers nutrition services, professional nursing care, therapeutic activities, facilitated participation in group or individual activities, social services, personal care services and, when specified in the individual plan of care, physical therapy, occupational therapy, speech therapy, behavioral health services, registered dietician services, and transportation.

~~(b) "Darling v. Douglas settlement agreement" means the settlement agreement entered into under Darling v. Douglas, Case No. C 09-03798 SBA, United States District Court, Northern District of California.~~

~~(c)~~

(b) "Department" means the State Department of Health Care Services.

14590.12. Notwithstanding the operational period of CBAS as specified in the Special Terms and Conditions of California's Bridge to Reform Section 1115(a) Medicaid Demonstration (11-W-00192/9), and notwithstanding the duration of the ~~Darling v. Douglas~~

~~CBAS settlement agreement~~, Case No. C-09-03798 SBA, CBAS shall be a Medi-Cal benefit.

14590.13. An individual shall be eligible for CBAS if he or she ~~meets medical necessity criteria as set forth by the state and meets one of the following criteria, as specified in the Darling v. Douglas settlement agreement.~~ criteria:

~~(a) Meets nursing facility A (NF A) level of care criteria or above.~~

~~(b) Has been diagnosed by a physician as having an organic, acquired or traumatic brain injury, or a chronic mental illness, and requires assistance or supervision in activities and instrumental activities of daily living.~~

~~(c) Has a moderate to severe cognitive disorder such as dementia or Alzheimer's disease.~~

~~(d) Has mild cognitive impairment or moderate Alzheimer's disease~~

~~or other dementia and requires assistance or supervision with activities and instrumental activities of daily living.~~

~~(c) Has a developmental disability that meets the definition of a substantial disability as described in Section 54001(a) of Title 17 of the California Code of Regulations.~~

~~(a) Meets "Nursing Facility Level of Care A" (NF-A) criteria, as set forth in the California Code of Regulations, or above NF-A level of care.~~

~~(b) Has a moderate to severe cognitive disorder such as dementia, including dementia characterized by the descriptors of, or equivalent to, stages 5, 6, or 7 of the Alzheimer's type.~~

~~(c) Has a moderate to severe cognitive disorder such as dementia, including dementia of the Alzheimer's type and needs assistance or supervision with two of the following:~~

- ~~(1) Bathing.~~
- ~~(2) Dressing.~~
- ~~(3) Self-feeding.~~
- ~~(4) Toileting.~~
- ~~(5) Ambulation.~~
- ~~(6) Transferring.~~
- ~~(7) Medication management.~~
- ~~(8) Hygiene.~~

~~(d) Has a developmental disability. "Developmental disability" means a disability that originates before the individual reaches 18 years of age, continues or can be expected to continue indefinitely, and constitutes a substantial disability, as defined in the California Code of Regulations, for that individual.~~

~~(e) (1) Has a chronic mental disorder or acquired, organic, or traumatic brain injury. "Chronic mental disorder" means the enrollee has one or more of the following diagnoses or its successor diagnoses included in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association:~~

- ~~(A) Pervasive developmental disorders.~~
- ~~(B) Attention deficit and disruptive behavior disorders.~~

~~(C) Feeding and eating disorder of infancy, childhood, or adolescence.~~

- ~~(D) Elimination disorders.~~
- ~~(E) Schizophrenia and other psychiatric disorders.~~
- ~~(F) Mood disorders.~~
- ~~(G) Anxiety disorders.~~
- ~~(H) Somatoform disorders.~~
- ~~(I) Factitious disorders.~~
- ~~(J) Dissociative disorders.~~
- ~~(K) Paraphilias.~~
- ~~(L) Gender identify disorder.~~
- ~~(M) Eating disorders.~~
- ~~(N) Impulse control disorders not elsewhere classified.~~

- ~~(O) Adjustment disorders.~~
- ~~(P) Personality disorders.~~
- ~~(Q) Medication-induced movement disorders.~~

~~(2) In addition to the presence of a chronic mental disorder or acquired, organic, or traumatic brain injury, the enrollee needs assistance or supervision with one of the following:~~

- ~~(A) Two of the following:~~
 - ~~(i) Bathing.~~
 - ~~(ii) Dressing.~~

- (iii) Self-feeding.
- (iv) Toileting.
- (v) Ambulation.
- (vi) Transferring.
- (vii) Medication management.
- (viii) Hygiene.

(B) One need set forth in subparagraph (A) and one of the following:

- (i) Money management.
- (ii) Accessing community and health resources.
- (iii) Meal preparation.
- (iv) Transportation.

(f) Meets criteria as established by Article 2 (commencing with Section 14525).

14590.14. (a) CBAS shall be provided and available at licensed Adult Day Health Care centers that are certified by the department as CBAS providers and shall be provided pursuant to a participant's Individualized Plan of Care, as developed by the center's multidisciplinary team. *Medi-Cal managed care plans shall contract for CBAS with any willing Adult Day Health Care center that is certified by the department as a CBAS provider.*

~~(b) In counties that have implemented managed care, CBAS shall only be available to eligible individuals enrolled in Medi-Cal managed care pursuant to Section 14186.3, except as follows:~~

~~(1) In counties that have not implemented managed care, CBAS shall be provided as a fee-for-service benefit to all eligible enrollees.~~

~~(2) For individuals who qualify for CBAS, but do not qualify for, or who have been exempted from, managed care, CBAS shall be provided as a fee for service benefit.~~

(b) *In counties where the department has implemented Medi-Cal managed care, CBAS shall be available only as a Medi-Cal managed care benefit pursuant to Section 14186.3, except that for individuals who qualify for CBAS, but are exempt from enrollment in Medi-Cal managed care, CBAS shall be provided as a fee-for-service Medi-Cal benefit.*

(c) *In counties that have not implemented managed care, CBAS shall be provided as a fee-for-service Medi-Cal benefit to all eligible Medi-Cal beneficiaries who qualify for CBAS.*

14590.15. All Medi-Cal managed care plans shall, at a minimum, ~~comply with all of the requirements in the Darling v. Douglas settlement agreement, including, but not limited to do all of the following:~~

(a) Authorize the number of days of service of CBAS to be provided at the same amount and duration as would have otherwise been authorized and provided in Medi-Cal on a fee-for-service basis. For beneficiaries receiving services on a fee-for-service basis as authorized by the department on or before June 30, 2012, the plan shall not reduce or otherwise limit the services without conducting a face-to-face evaluation.

(b) Contract with any willing CBAS provider in the plan's service area at no less than the prevailing Medi-Cal fee-for-service rates to provide CBAS. Plans shall include all contracting CBAS providers in its enrollee information material. This subdivision shall not prevent a plan from paying CBAS providers above the prevailing Medi-Cal fee-for-service rates.

(c) Meet on a regular basis with CBAS providers and member representatives on CBAS issues, including the service authorization

process and provider payments.

14590.16. (a) CBAS providers shall meet all applicable licensing, Medi-Cal, and ~~waiver program~~ California's Bridge to Reform Section 1115(a) Medicaid Demonstration (11-W-00192/9) standards, including, but not limited to, licensing provisions in Division 2 (commencing with Section 1200) of the Health and Safety Code, including Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code, and shall provide services in accordance with Chapter 10 (commencing with Section 78001) of Division 5 of Title 22 of the California Code of Regulations.

(b) CBAS providers shall be enrolled as ~~Medi-Cal waiver~~ California's Bridge to Reform Section 1115(a) Medicaid Demonstration (11-W-00192/9) providers and shall meet the standards specified in this chapter and Chapter 5 (commencing with Section 54001) of Division 3 of Title 22 of the California Code of Regulations.

14590.17. Commencing July 1, 2015, the department shall ~~only~~ certify and enroll as new CBAS providers *only those providers* that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

14590.18. On or before March 1, 2014, and after consultation with providers and consumer representatives, ~~all~~ *each* Medi-Cal managed care ~~plans~~ *plan* shall develop and publish an implementation plan that describes the processes and criteria to determine member eligibility for receiving CBAS and reauthorization of services, and the criteria for determining the number of days of service to be provided. In no instance shall a plan make eligibility for services more restrictive or administratively burdensome than *under* the terms of the ~~Darling v. Douglas~~ CBAS settlement agreement.

14590.19. On or before July 1, 2014, and after consultation with CBAS providers, managed care plans, consumers, and consumer representatives, the department shall submit to appropriate legislative budget and policy committees for review and comment a quality assurance proposal, which shall specify how the department will address quality assurance in the CBAS program under managed care.

14590.20. (a) Unless otherwise specified, in the event of a conflict between any provision of this article and the Special Terms and Conditions of California's Bridge to Reform Section 1115(a) Medicaid Demonstration (11-W-00193/9), the Special Terms and Conditions shall control.

(b) *This section shall become inoperative on August 31, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.*

BILL NUMBER: AB 772 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Jones

FEBRUARY 21, 2013

An act to amend Section 320 of the Business and Professions Code, relating to consumer affairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 772, as introduced, Jones. Consumer affairs: intervention in state agency or court proceedings.

Under existing law, when the Director of Consumer Affairs finds that a matter or proceeding before a state agency or a state or federal court may substantially affect the interests of consumers within California, he or she or the Attorney General may intervene in that matter or proceeding and present the evidence and argument that he or she determines to be necessary to protect the interests of consumers.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 320 of the Business and Professions Code is amended to read:

320. Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, any matter or proceeding ~~which~~ *that* the director finds may affect substantially the interests of consumers within California, the director ~~or the Attorney General~~ *or the Attorney General* may intervene in ~~such~~ *that* matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General, may thereafter present to ~~such~~ *the* agency, court, or department, in conformity with the rules of practice and procedure thereof, ~~such~~ *the* evidence and argument ~~as he shall determine~~ *that he or she determines* to be necessary ~~for~~ *for* the effective protection of the interests of consumers.

BILL NUMBER: AB 1310INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Brown

FEBRUARY 22, 2013

An act to amend Section 14132.25 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1310, as introduced, Brown. Medi-Cal: pediatric subacute care.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires the department to establish a subacute care program in health facilities in order to more effectively use limited Medi-Cal dollars while ensuring needed services for patients who meet subacute care criteria, as established by the department. For the purposes of the subacute care program, existing law defines pediatric subacute services as the health care services needed by a person under 21 years of age who uses a medical technology that compensates for the loss of a vital bodily function. Existing law also provides that, for the purposes of the subacute care program, medical necessity for pediatric subacute care services, as defined, shall be substantiated in one of 5 ways.

This bill would expand the definition of pediatric subacute services to include the health care services needed by a person between 21 and 22 years of age who uses a medical technology that compensates for the loss of a vital bodily function and to include the health care services needed by a person under 22 years of age who requires treatment for one or more active complex medical conditions or requires the administration of one or more technically complex treatments.

This bill would also provide that one of the ways that medical necessity for pediatric subacute care services shall be substantiated is by dependence on complex wound care management or the presence of a medical condition and necessity of care such that his or her health care needs may be satisfied by placement in a facility providing pediatric subacute care services, but, in the absence of access to a pediatric subacute care service, the only alternative in patient care sufficient to meet the patient's medical needs is an acute care hospital bed. The bill would also provide that medical necessity may be shown solely by dependence on total parenteral nutrition or other intravenous nutritional support, without a showing of dependence on additional treatments, and by dependence on tracheostomy care, as specified, in conjunction with dependence on

tube feeding by means of a jejunostomy tube.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14132.25 of the Welfare and Institutions Code is amended to read:

14132.25. (a) On or before July 1, 1983, the State Department of Health Care Services shall establish a subacute care program in health facilities in order to more effectively use the limited Medi-Cal dollars available while at the same time ensuring needed services for these patients. The subacute care program shall be available to patients in health facilities who meet subacute care criteria. Subacute care may be provided by any facility designated by the director as meeting the subacute care criteria that has an approved provider participation agreement with the department.

(b) The department shall develop a rate of reimbursement for this subacute care program. Reimbursement rates shall be determined in accordance with methodology developed by the department, specified in regulation, and may include the following:

(1) All-inclusive per diem rates.

(2) Individual patient-specific rates according to the needs of the individual subacute care patient.

(3) Other rates subject to negotiation with the health facility.

(c) Reimbursement at subacute care rates, as specified in subdivision (b), shall only be implemented if funds are available for this purpose pursuant to the annual Budget Act.

(d) The department may negotiate and execute an agreement with any health facility that meets the standards for providing subacute care. An agreement may be negotiated or established between the health facility and the department for subacute care based on individual patient assessment. The department shall establish level of care criteria and appropriate utilization controls for patients eligible for the subacute care program.

(e) For the purposes of this section, pediatric subacute services are the health care services needed by a person under ~~21~~

22 years of age who uses a medical technology that compensates for the loss of a vital bodily ~~function.~~

function, requires treatment for one or more active complex medical conditions, or requires the administration of one or more technically complex treatments.

(f) Medical necessity for pediatric subacute care services shall be substantiated in any one of the following ways:

(1) A tracheostomy with dependence on mechanical ventilation for a minimum of six hours each day.

(2) Dependence on tracheostomy care requiring suctioning at least every six hours, and room air mist or oxygen as needed, and dependence on one of the five treatment procedures listed in subparagraphs (B) to (F), inclusive:

(A) Dependence on intermittent suctioning at least every eight

hours and room air mist and oxygen as needed.

(B) Dependence on continuous intravenous therapy, including administration of a therapeutic agent necessary for hydration or of intravenous pharmaceuticals, or intravenous pharmaceutical administration of ~~more than one agent,~~ one or more agents, via a peripheral or central line, without continuous infusion.

(C) Dependence on peritoneal dialysis treatments requiring at least four exchanges every 24 hours.

(D) Dependence on tube feeding by means of a ~~nasogastric or gastrostomy~~ nasogastric, gastrostomy, or jejunostomy tube.

(E) Dependence on other medical technologies required continuously, ~~which~~ that, in the opinion of the attending physician and the Medi-Cal consultant, require the services of a ~~professional licensed registered~~ nurse.

(F) Dependence on biphasic positive airway pressure at least six hours a day, including assessment or intervention every three hours and lacking either cognitive or physical ability of the patient to protect his or her airway.

(3) Dependence on total parenteral nutrition or other intravenous nutritional ~~support, and dependence on one of the treatment procedures specified in subparagraphs (A) to (F), inclusive, of paragraph (2).~~ support.

(4) Dependence on skilled nursing care in the administration of any three of the *following* six treatment ~~procedures specified in subparagraphs (A) to (F), inclusive, of paragraph (2).~~ procedures:

(A) Dependence on intermittent suctioning at least every eight hours and room air mist and oxygen as needed.

(B) Dependence on continuous intravenous therapy, including administration of a therapeutic agent necessary for hydration or of intravenous pharmaceuticals, or intravenous pharmaceutical administration of one or more agents, via a peripheral or central line, without continuous infusion.

(C) Dependence on peritoneal dialysis treatments requiring at least four exchanges every 24 hours.

(D) Dependence on tube feeding by means of a nasogastric, gastrostomy, or jejunostomy tube.

(E) Dependence on other medical technologies required continuously that in the opinion of the attending physician and the Medi-Cal consultant, require the services of a licensed registered nurse.

(F) Dependence on biphasic positive airway pressure at least six hours a day, including assessment or intervention every three hours for a patient lacking either cognitive or physical ability of the patient to protect his or her airway.

(5) Dependence on biphasic positive airway pressure or continuous positive airway pressure at least six hours a day, including assessment or intervention every three hours ~~and~~, for a patient lacking either cognitive or physical

ability ~~of the patient~~ to protect his or her airway , and dependence on one of the following five treatment ~~procedures specified in subparagraphs (A) to (E), inclusive, of paragraph (2).~~ procedures:

(A) Dependence on intermittent suctioning at least every eight hours and room air mist and oxygen as needed.

(B) Dependence on continuous intravenous therapy, including administration of a therapeutic agent necessary for hydration or of intravenous pharmaceuticals, or intravenous pharmaceutical administration of one or more agents, via a peripheral or central line, without continuous infusion.

(C) Dependence on peritoneal dialysis treatments requiring at least four exchanges every 24 hours.

(D) Dependence on tube feeding by means of a nasogastric, gastrostomy, or jejunostomy tube.

(E) Dependence on other medical technologies required continuously that in the opinion of the attending physician and the Medi-Cal consultant, require the services of a licensed registered nurse.

(6) Dependence on complex wound care management, including daily assessment or intervention by a licensed registered nurse and daily dressing changes, wound packing, debridement, negative pressure wound therapy, or a special mattress.

(7) The patient has a medical condition and requires an intensity of medical or skilled nursing care such that his or her health care needs may be satisfied by placement in a facility providing pediatric subacute care services, but, in the absence of a facility providing pediatric subacute care services, the only other inpatient care appropriate to meet the patient's health care needs under the Medi-Cal program is in an acute care licensed hospital bed.

(g) The medical necessity determination outlined in subdivision (f) is intended solely for the evaluation of a patient who is potentially eligible and meets the criteria to be transferred from an acute care setting to a subacute level of care.

BILL NUMBER: SB 176 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 24, 2013

INTRODUCED BY Senator Galgiani
(Coauthors: Senators
Cannella and Correa)

FEBRUARY 6, 2013

An act to add ~~Section~~ Sections
11346.46 and 11346.47 to the Government Code, relating to
administrative procedures.

LEGISLATIVE COUNSEL'S DIGEST

SB 176, as amended, Galgiani. Administrative procedures.

Existing law governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, including procedures relating to increased public participation in the adoption, amendment, and repeal of these regulations.

This bill would, in order to increase public participation and improve the quality of regulations, require state agencies, boards, and commissions to ~~publish~~ submit a notice prior to any meeting date or report, provided the meeting or report is seeking public input, as described. *The bill would additionally require state agencies, boards, and commissions to submit specified notices to the Office of Administrative Law, for publication in the California Regulatory Notice Register.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11346.46 is added to the Government Code, to read:

11346.46. (a) In order to increase public participation in the regulation development process and improve the quality of regulations, state agencies, boards, and commissions shall ~~publish~~ submit a notice in the California Regulatory Notice ~~Register, as prepared by the Office of Administrative Law,~~ Register. *The notice shall appear in the California Regulatory Notice Register at least 15 days prior to any meeting date or report, provided the meeting or report is seeking public input.*

(b) For purposes of this section, meetings and reports seeking public input include, but are not limited to, the following *formal, official, or organized* :

- (1) Informational hearings.
- (2) Workshops.
- (3) Scoping hearings.
- (4) Preliminary meetings.
- (5) Public and stakeholder outreach meetings.
- ~~(6) Fifteen-day comment period notices.~~

~~(7) The posting of Internet Web site links to informational and state reports prepared for public review and comment.~~

SEC. 2 . Section 11346.47 is added to the Government Code , to read:

11346.47. State agencies, boards, and commissions shall submit a notice to the Office of Administrative Law for publication in the California Regulatory Notice Register, upon issuance or publication of the following:

(a) Any notice required by either subdivision (c) of Section 11346.8, commonly known as 15-day comment period notice, or subdivision (b) of Section 11347.1.

(b) Any Internet Web site link to informational reports prepared for public review that have been posted on the agency, board, or commission Internet Web site in connection with proposed regulations.

BILL NUMBER: SB 690 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Price

FEBRUARY 22, 2013

An act to amend Section 23.7 of the Business and Professions Code, relating to licenses.

LEGISLATIVE COUNSEL'S DIGEST

SB 690, as introduced, Price. Licenses.

Existing law provides for the licensing of various professions and vocations by boards within the Department of Consumer Affairs. Existing law defines license to mean a license, certificate, registration, or other means to engage in a business or profession, as provided.

This bill would expand the definition of license to include a permit.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 23.7 of the Business and Professions Code is amended to read:

23.7. Unless otherwise expressly provided, "license" means license, certificate, registration, *permit*, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.