STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
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TELECONFERENCE LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE MEETING NOTICE & AGENDA

Department of Consumer Affairs
Lake Almanor Room
2005 Evergreen Street
Sacramento, CA 95815
Directions only: (916) 263-2294

Eisenhower Medical Center
Hand Therapy Clinic
39000 Bob Hope Drive
Rancho Mirage, CA 92270
Directions only: (760) 773-1630

San Luis Nursing and Rehabilitation Center
Rehabilitation Department
709 North Street
Newman, CA 95360
Directions only: (209) 329-2974

Scripps Memorial Hospital Encinitas
Rehabilitation Center Conference Room
354 Santa Fe Drive
Encinitas, CA 92024
Directions only: (760) 633-6507

39 La Crosse Drive
Morgan Hill, CA 95037
Directions only: (408) 612-5067

Tuesday, August 16, 2011

3:00 pm – Legislation and Regulatory Affairs Committee Meeting

The public may provide comment on any issue before the committee at the time the matter is discussed.

1. Call to order, roll call, establishment of a quorum

2. Introductions

3. Review/update of Committee Member Roster/Information.

4. Review and discussion of the Committee's Roles and Responsibilities and consideration of recommending changes to the Board.

5. Discussion and consideration of recommending a position to the Board on the following bills:

   a) Assembly Bill (AB) 171(Beall), Autism
   b) AB 374 (Hayashi), Provides for licensure of Athletic Trainers
   c) AB 518 (Wagner), Elder and dependent adult abuse: mandated reporters.
   d) AB 783 (Hayashi), Professional Corporations.
   e) AB 800 (Huber), Boards and Commissions: Time Reporting.
   f) AB 958 (Berryhill) – Statute of limitations for disciplinary actions.
   g) AB 1003 (Smyth) Professional and vocational licenses.

h) AB 386 (Galgiani), Prisons: telehealth systems.
i) AB 415 (Logue), Telehealth.
j) AB 608 (Pan), Telemedicine.
k) Senate Bill (SB) 946 (Committee on Health), Telemedicine.
l) SB 399 (Huff), Healing Arts: Advertising.
m) SB 462 (Blakeslee), Provides for certification of special education advocates.
n) SB 541 (Price), Exemptions for boards from the Public Contract Code requirements (for use of Expert Consultants).
o) SB 544 (Price), Professions and Vocations: Amendments to the Business and Professions Code; the general provisions and the Occupational Therapy Practice Act.
p) SB 924 (Walters), Direct patient access to physical therapy.
q) SB 24 (Simitian), Personal Information: Privacy.
r) SB 850 (Leno), Medical records: confidential information.
s) AB 439 (Skinner), Health care information.

6. Selection of future meeting dates.

7. Public comment on items not on agenda.

8. Adjournment

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE
ACTION MAY BE TAKEN ON ANY ITEM ON THE AGENDA;
ITEMS MAY BE TAKEN OUT OF ORDER

Questions regarding this agenda should be directed to Heather Martin, Executive Officer, at the Board's office in Sacramento. Meetings of the California Board of Occupational Therapy are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. A quorum of the board may be present at the committee meeting. Board members who are not members of the committee may observe but not participate or vote. Public comment is appropriate on any issue before the workshop at the time the issue is heard, but the chairperson may, at his or her discretion, apportion available time among those who wish to speak. The meeting is accessible to individuals with disabilities. A person who needs disability related accommodations or modifications in order to participate in the meeting shall make a request to Jeff Hanson at (916) 263-2294 or 2005 Evergreen Street, Suite 2050, Sacramento, California, 95815. Providing at least five working days notice before the meeting will help ensure the availability of accommodations or modifications.

AGENDA ITEM 3

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

Legislative and Regulatory Affairs Committee Contact Information

	MEMBER NAME / CONTACT INFORMATION		
	Ms. Luella Grangaard		
Email Add #1	lgrangaard@emc.org	*Email Add #2*	
Telephone #	(760) 773-2955	*Fax #*	
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DRAFT

AGENDA ITEM 4

California Board of Occupational Therapy

LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE

Roles & Responsibilities

1. Review current regulations and provide recommendations to the Board on proposed regulatory amendments;

2. Review current statute and provide recommendations to the Board on legislative proposals;

3. Review pending bills and provide recommended positions to the Board;

4. Serve as a resource to other committees;

5.

6.

DRAFT

AGENDA ITEM 5

CURRENT BILL STATUS

MEASURE : A.B. No. 171
AUTHOR(S) : Beall (Coauthors: Ammiano, Blumenfield, Brownley, Carter, Chesbro, Eng, Huffman, Mitchell, Swanson, Wieckowski, Williams, and Yamada).
TOPIC : Autism spectrum disorder.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 05/03/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/27/2011
LAST HIST. ACTION : In committee: Hearing postponed by committee.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to add Section 1374.73 to the Health and Safety Code, and to add Section 10144.51 to the Insurance Code, relating to health care coverage.

AMENDED IN ASSEMBLY MAY 3, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 171

Introduced by Assembly Member Beall
(Coauthors: Assembly Members Ammiano, Blumenfield, Brownley, Carter, Chesbro, Eng, Huffman, Mitchell, Swanson, *Wieckowski,* Williams, and Yamada)

January 20, 2011

An act to add Section 1374.73 to the Health and Safety Code, and to add Section 10144.51 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Beall. Autism spectrum disorder.

(1) Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. A willful violation of these provisions is a crime. Existing law provides for licensing and regulation of health insurers by the Insurance Commissioner. Existing law requires health care service plan contracts and health insurance policies to provide benefits for specified conditions, including certain mental health conditions.

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders. The bill would, however, provide that no benefits are required to be provided by a health benefit plan offered through the California Health Benefit Exchange that exceed the essential health benefits required under federal law. The bill would

prohibit coverage from being denied for specified reasons. Because the bill would change the definition of a crime with respect to health care service plans, it would thereby impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 1374.73 is added to the Health and Safety
2 Code, to read:
3 1374.73. (a) Every health care service plan contract issued,
4 amended, or renewed on or after January 1, 2012, that provides
5 hospital, medical, or surgical coverage shall provide coverage for
6 the screening, diagnosis, and treatment of autism spectrum
7 disorders.
8 (b) A health care service plan shall not terminate coverage, or
9 refuse to deliver, execute, issue, amend, adjust, or renew coverage,
10 to an enrollee solely because the individual is diagnosed with, or
11 has received treatment for, an autism spectrum disorder.
12 (c) Coverage required to be provided under this section shall
13 extend to all medically necessary services and shall not be subject
14 to any limits regarding age, number of visits, or dollar amounts.
15 Coverage required to be provided under this section shall not be
16 subject to provisions relating to lifetime maximums, deductibles,
17 copayments, or coinsurance or other terms and conditions that are
18 less favorable to an enrollee than lifetime maximums, deductibles,
19 copayments, or coinsurance or other terms and conditions that
20 apply to physical illness generally under the plan contract.
21 (d) Coverage required to be provided under this section is a
22 health care service and a covered health care benefit for purposes
23 of this chapter. Coverage shall not be denied on the basis that the
24 treatment is habilitative, nonrestorative, educational, academic, or
25 custodial in nature.
26 (e) A health care service plan may request, no more than once
27 annually, a review of treatment provided to an enrollee for autism

spectrum disorders. The cost of obtaining the review shall be borne by the plan. This subdivision does not apply to inpatient services.

(f) A health care service plan shall establish and maintain an adequate network of qualified autism service providers with appropriate training and experience in autism spectrum disorders to ensure that enrollees have a choice of providers, and have timely access, continuity of care, and ready referral to all services required to be provided by this section consistent with Sections 1367 and 1367.03 and the regulations adopted pursuant thereto.

(g) (1) This section shall not be construed as reducing any obligation to provide services to an enrollee under an individualized family service plan, an individualized program plan, a prevention program plan, an individualized education program, or an individualized service plan.

(2) This section shall not be construed as limiting benefits that are otherwise available to an enrollee under a health care service plan.

(3) This section shall not be construed as affecting litigation that is pending on January 1, 2012.

(h) On and after January 1, 2014, to the extent that this section requires health benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) by qualified health plans offering those benefits in the California Health Benefit Exchange pursuant to Title 22 (commencing with Section 100500) of the Government Code, the specific benefits that exceed the federally required essential health benefits are not required to be provided when offered by a health care service plan contract through the Exchange. However, those specific benefits are required to be provided if offered by a health care service plan contract outside of the Exchange.

(i) As used in this section, the following terms shall have the following meanings:

(1) "Autism spectrum disorder" means a neurobiological condition that includes autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and pervasive developmental disorder not otherwise specified.

(2) "Behavioral health treatment" means professional services and treatment programs, including behavioral intervention therapy, applied behavioral analysis, and other intensive behavioral programs, that have demonstrated efficacy to develop, maintain, or restore, to the maximum extent practicable, the functioning or quality of life of an individual and that have been demonstrated to treat the core symptoms associated with autism spectrum disorder.

(3) "Behavioral intervention therapy" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in behaviors, including the use of direct observation, measurement, and functional analyses of the relationship between environment and behavior.

(4) "Diagnosis of autism spectrum disorders" means medically necessary assessment, evaluations, or tests to diagnose whether an individual has one of the autism spectrum disorders.

(5) "Evidence-based research" means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(6) "Pharmacy care" means medications prescribed by a licensed physician and surgeon or other appropriately licensed or certified provider and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(7) "Psychiatric care" means direct or consultative psychiatric services provided by a psychiatrist or any other appropriately licensed or certified provider.

(8) "Psychological care" means direct or consultative psychological services provided by a psychologist or any other appropriately licensed or certified provider.

(9) "Qualified autism service provider" shall include any nationally or state licensed or certified person, entity, or group that designs, supervises, or provides treatment of autism spectrum disorders and the unlicensed personnel supervised by the licensed or certified person, entity, or group, provided the services are within the experience and scope of practice of the licensed or certified person, entity, or group. "Qualified autism service provider" shall also include any service provider that is vendorized by a regional center to provide those same services for autism spectrum disorders under Division 4.5 (commencing with Section

4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code and the unlicensed personnel supervised by that provider, or a State Department of Education nonpublic, nonsectarian agency as defined in Section 56035 of the Education Code approved to provide those same services for autism spectrum disorders and the unlicensed personnel supervised by that agency. A qualified autism service provider shall ensure criminal background screening and fingerprinting, and adequate training and supervision of all personnel utilized to implement services. Any national license or certification recognized by this section shall be accredited by the National Commission for Certifying Agencies (NCCA).

~~(9)~~

(10) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists or any other appropriately licensed or certified provider.

~~(10)~~

(11) "Treatment for autism spectrum disorders" means all of the following care, including necessary equipment, prescribed or ordered for an individual diagnosed with one of the autism spectrum disorders by a licensed physician and surgeon or a licensed psychologist or any other appropriately licensed or certified provider who determines the care to be medically necessary:

(A) Behavioral health treatment.

(B) Pharmacy care.

(C) Psychiatric care.

(D) Psychological care.

(E) Therapeutic care.

(F) Any care for individuals with autism spectrum disorders that is demonstrated, based upon best practices or evidence-based research, to be medically necessary.

(j) This section, with the exception of subdivision (b), shall not apply to dental-only or vision-only health care service plan contracts.

SEC. 2. Section 10144.51 is added to the Insurance Code, to read:

10144.51. (a) Every health insurance policy issued, amended, or renewed on or after January 1, 2012, that provides hospital,

medical, or surgical coverage shall provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders.

(b) A health insurer shall not terminate coverage, or refuse to deliver, execute, issue, amend, adjust, or renew coverage, to an insured solely because the individual is diagnosed with, or has received treatment for, an autism spectrum disorder.

(c) Coverage required to be provided under this section shall extend to all medically necessary services and shall not be subject to any limits regarding age, number of visits, or dollar amounts. Coverage required to be provided under this section shall not be subject to provisions relating to lifetime maximums, deductibles, copayments, or coinsurance or other terms and conditions that are less favorable to an insured than lifetime maximums, deductibles, copayments, or coinsurance or other terms and conditions that apply to physical illness generally under the policy.

(d) Coverage required to be provided under this section is a health care service and a covered health care benefit for purposes of this part. Coverage shall not be denied on the basis that the treatment is habilitative, nonrestorative, educational, academic, or custodial in nature.

(e) A health insurer may request, no more than once annually, a review of treatment provided to an insured for autism spectrum disorders. The cost of obtaining the review shall be borne by the insurer. This subdivision does not apply to inpatient services.

(f) A health insurer shall establish and maintain an adequate network of qualified autism service providers with appropriate training and experience in autism spectrum disorders to ensure that insureds have a choice of providers, and have timely access, continuity of care, and ready referral to all services required to be provided by this section consistent with Sections 10133.5 and 10133.55 and the regulations adopted pursuant thereto.

(g) (1) This section shall not be construed as reducing any obligation to provide services to an insured under an individualized family service plan, an individualized program plan, a prevention program plan, an individualized education program, or an individualized service plan.

(2) This section shall not be construed as limiting benefits that are otherwise available to an enrollee under a health insurance policy.

(3) This section shall not be construed as affecting litigation that is pending on January 1, 2012.

(h) On and after January 1, 2014, to the extent that this section requires health benefits to be provided that exceed the essential health benefits required to be provided under Section 1302(b) of the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) by qualified health plans offering those benefits in the California Health Benefit Exchange pursuant to Title 22 (commencing with Section 100500) of the Government Code, the specific benefits that exceed the federally required essential health benefits are not required to be provided when offered by a health insurance policy through the Exchange. However, those specific benefits are required to be provided if offered by a health insurance policy outside of the Exchange.

(i) As used in this section, the following terms shall have the following meanings:

(1) "Autism spectrum disorder" means a neurobiological condition that includes autistic disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and pervasive developmental disorder not otherwise specified.

(2) "Behavioral health treatment" means professional services and treatment programs, including behavioral intervention therapy, applied behavioral analysis, and other intensive behavioral programs, that have demonstrated efficacy to develop, maintain, or restore, to the maximum extent practicable, the functioning or quality of life of an individual and that have been demonstrated to treat the core symptoms associated with autism spectrum disorder.

(3) "Behavioral intervention therapy" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in behaviors, including the use of direct observation, measurement, and functional analyses of the relationship between environment and behavior.

(4) "Diagnosis of autism spectrum disorders" means medically necessary assessment, evaluations, or tests to diagnose whether an individual has one of the autism spectrum disorders.

(5) "Evidence-based research" means research that applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(6) "Pharmacy care" means medications prescribed by a licensed physician and surgeon or other appropriately licensed or certified provider and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(7) "Psychiatric care" means direct or consultative psychiatric services provided by a psychiatrist or any other appropriately licensed or certified provider.

(8) "Psychological care" means direct or consultative psychological services provided by a psychologist or any other appropriately licensed or certified provider.

(9) "Qualified autism service provider" shall include any nationally or state licensed or certified person, entity, or group that designs, supervises, or provides treatment of autism spectrum disorders and the unlicensed personnel supervised by the licensed or certified person, entity, or group, provided the services are within the experience and scope of practice of the licensed or certified person, entity, or group. "Qualified autism service provider" shall also include any service provider that is vendorized by a regional center to provide those same services for autism spectrum disorders under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code or Title 14 (commencing with Section 95000) of the Government Code and the unlicensed personnel supervised by that provider, or a State Department of Education nonpublic, nonsectarian agency as defined in Section 56035 of the Education Code approved to provide those same services for autism spectrum disorders and the unlicensed personnel supervised by that agency. A qualified autism service provider shall ensure criminal background screening and fingerprinting, and adequate training and supervision of all personnel utilized to implement services. Any national license or certification recognized by this section shall be accredited by the National Commission for Certifying Agencies (NCCA).

~~(9)~~

(10) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists or any other appropriately licensed or certified provider.

~~(10)~~

1 *(11)* "Treatment for autism spectrum disorders" means all of
2 the following care, including necessary equipment, prescribed or
3 ordered for an individual diagnosed with one of the autism
4 spectrum disorders by a licensed physician and surgeon or a
5 licensed psychologist or any other appropriately licensed or
6 certified provider who determines the care to be medically
7 necessary:
8 (A) Behavioral health treatment.
9 (B) Pharmacy care.
10 (C) Psychiatric care.
11 (D) Psychological care.
12 (E) Therapeutic care.
13 (F) Any care for individuals with autism spectrum disorders
14 that is demonstrated, based upon best practices or evidence-based
15 research, to be medically necessary.
16 (j) This section, with the exception of subdivision (b), shall not
17 apply to dental-only or vision-only health insurance policies.
18 SEC. 3. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

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CURRENT BILL STATUS

MEASURE : A.B. No. 374
AUTHOR(S) : Hayashi.
TOPIC : Athletic.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/27/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/16/2011
LAST HIST. ACTION : In committee: Set, first hearing. Hearing canceled at the request of author.
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to add Chapter 2.7 (commencing with Section 18898) to Division 8 of the Business and Professions Code, relating to athletic trainers.

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 374

Introduced by Assembly Member Hayashi

February 14, 2011

~~An act to add Chapter 5.8 (commencing with Section 2697.2) to Division 2 of, and to repeal Section 2697.8 of, the Business and Professions Code, relating to athletic trainers.~~ *An act to add Chapter 2.7 (commencing with Section 18898) to Division 8 of the Business and Professions Code, relating to athletic trainers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 374, as amended, Hayashi. ~~Athletic trainers.~~ *Athletic.*

Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.

This bill would make it unlawful for any person to hold himself or herself out as a certified athletic trainer unless he or she has been certified by the Board of Certification, Inc., and has either graduated from a college or university, after completing an accredited athletic training education program, as specified, or completed requirements for certification by the Board of Certification, Inc., prior to January 1, 2004. The bill would make it an unfair business practice to violate these provisions.

~~Existing law provides for the regulation of various professions and vocations, including those of an athlete agent.~~

~~This bill would, commencing January 1, 2013, provide for the licensure and regulation of athletic trainers, as defined, by an Athletic Trainer Licensing Committee, to be established by the bill within the Medical Board of California. Under the bill, the committee would be comprised of 7 members, as specified, appointed by the Governor, subject to Senate confirmation, the Senate Committee on Rules, and the Speaker of the Assembly. The bill would, except as specified, prohibit a person from practicing as an athletic trainer or using certain titles without a license issued by the committee. The bill would require an applicant for licensure to meet certain educational requirements, pass a specified examination, hold specified athletic trainer certification, possess emergency cardiac care certification, and submit an application and pay an application and processing fee established by the committee. The bill would require the committee to issue a license to an applicant who qualifies for licensure and pays a specified license fee. The bill would also specify that a license shall be valid for 2 years and is subject to renewal upon the completion of specified requirements including the payment of a renewal fee. The bill would define the practice of athletic training and prescribe supervision and other requirements on athletic trainers. The bill would create the Athletic Trainers Account, within the Contingent Fund of the Medical Board of California, would direct the deposit of the application and renewal fees into this account, and would make those fees available to the committee subject to appropriation by the Legislature.~~

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

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 2.7 (commencing with Section 18898)*
2 *is added to Division 8 of the Business and Professions Code, to*
3 *read:*
4
5 *CHAPTER 2.7. ATHLETIC TRAINERS*
6
7 *18898. (a) No person shall hold himself or herself out to be a*
8 *certified athletic trainer unless he or she meets the following*
9 *requirements:*

(1) He or she has done either of the following:

(A) Graduated from a college or university after completing an athletic training education program accredited by the Commission on Accreditation of Athletic Training Education, or its predecessors or successors.

(B) Completed requirements for certification by the Board of Certification, Inc., prior to January 1, 2004.

(2) He or she has been certified by the Board of Certification, Inc.

(b) It is an unfair business practice within the meaning of Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 for any person to use the title of "certified athletic trainer" or any other term, such as "licensed," "registered," or "ATC," that implies or suggests that the person is certified as an athletic trainer, if the person does not meet the requirements of subdivision (a).

~~SECTION 1. The Legislature finds and declares the following:~~

~~(a) California is one of only three states that does not currently regulate the practice of athletic training. This continued lack of regulation creates the risk that individuals who have lost or are unable to obtain licensure in another state will come to California to practice, thereby putting the public in danger and degrading the standards of the profession as a whole.~~

~~(b) There is a pressing and immediate need to regulate the profession of athletic training in order to protect the public health, safety, and welfare. This need is particularly important because athletic trainers often work with schoolage children.~~

~~SEC. 2. Chapter 5.8 (commencing with Section 2697.2) is added to Division 2 of the Business and Professions Code, to read:~~

~~CHAPTER 5.8. ATHLETIC TRAINERS~~

~~2697.2. This chapter shall be known and may be cited as the Athletic Trainers Practice Act.~~

~~2697.4. For the purposes of this chapter, the following definitions shall apply:~~

~~(a) "Athletic trainer" means a person who meets the requirements of this chapter and is licensed by the committee.~~

~~(b) "Board" means the Medical Board of California.~~

~~(c) "Committee" means the Athletic Trainer Licensing Committee.~~

~~2697.6. (a) No person shall engage in the practice of athletic training unless licensed pursuant to this chapter.~~

~~(b) No person shall use the title "athletic trainer," "licensed athletic trainer," "certified athletic trainer," "athletic trainer certified," "a.t.," "a.t.l.," "c.a.t.," "a.t.c.," or any other variation of these terms, or any other similar terms indicating that the person is an athletic trainer unless that person is licensed pursuant to this chapter.~~

~~(c) Notwithstanding subdivisions (a) and (b), a person who practiced athletic training in California for a period of seven consecutive years prior to January 1, 2013, may use the title "athletic trainer" without being licensed by the committee. However, on and after January 1, 2016, no person may use the title "athletic trainer" unless he or she is licensed by the committee pursuant to the provisions of this chapter.~~

~~2697.8. (a) There is established an Athletic Trainer Licensing Committee within the Medical Board of California. The committee shall consist of seven members.~~

~~(b) The seven committee members shall include the following:~~

~~(1) Four licensed athletic trainers. Initially, the committee shall include four athletic trainers who have satisfied the requirements of subdivision (a) of Section 2697.12 and who will satisfy the remainder of the licensure requirements described in Section 2697.12 as soon as it is practically possible.~~

~~(2) One public member.~~

~~(3) Two licensees, in any combination, chosen from the following: physicians and surgeons licensed by the board, osteopathic physicians and surgeons licensed by the Osteopathic Medical Board of California, or doctors of chiropractic licensed by the State Board of Chiropractic Examiners.~~

~~(c) Subject to confirmation by the Senate, the Governor shall appoint two of the licensed athletic trainers and the public member. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a licensed athletic trainer and a physician and surgeon, an osteopathic physician and surgeon, or a doctor of chiropractic as described in paragraph (3) of subdivision (b).~~

~~(d) (1) All appointments shall be for a term of four years and shall expire on June 30 of the year in which the term expires. Vacancies shall be filled for any unexpired term.~~

~~(2) Notwithstanding paragraph (1), for initial appointments made on or after January 1, 2013, the public member appointed by the Governor shall serve a term of one year. Two of the athletic trainers appointed by the Senate Committee on Rules and the Speaker of the Assembly shall serve terms of three years, and the remaining members shall serve terms of four years.~~

~~(e) Each member of the committee shall receive per diem and expenses as provided in Section 103.~~

~~(f) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. The repeal of this section renders the committee subject to the review required by Article 7.5 (commencing with Section 9147.7) of the Government Code.~~

~~2697.10. (a) The committee shall adopt, repeal, and amend regulations as may be necessary to enable it to carry into effect the provisions of this chapter. All regulations shall be in accordance with the provisions of this chapter.~~

~~(b) In promulgating regulations, the committee may consult the professional standards issued by the National Athletic Trainers' Association, the Board of Certification, Inc., or any other nationally recognized professional association.~~

~~(c) The committee shall approve programs for the education and training of athletic trainers.~~

~~(d) Protection of the public shall be the highest priority for the committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

~~2697.12. In order to qualify for a license, an applicant shall meet all of the following requirements:~~

~~(a) Has submitted an application developed by the committee that includes evidence that the applicant has completed athletic trainer certification eligibility requirements from a nationally accredited athletic training education program at a four-year college or university approved by the committee.~~

~~(b) Has passed an athletic training certification examination offered by a nationally accredited athletic trainer certification agency approved by the committee.~~

~~(c) Holds current athletic training certification from a nationally accredited athletic trainer certification agency approved by the committee.~~

~~(d) Possesses an emergency cardiac care certification from a certification body, approved by the committee, that adheres to the most current international guidelines for cardiopulmonary resuscitation and emergency cardiac care.~~

~~(e) Has paid the application and processing fee established by the committee, as described in Section 2697.16.~~

~~2697.13. The committee shall issue a license to an applicant who satisfies the requirements described in Section 2697.12 and pays a license fee, as described in Section 2697.16.~~

~~2697.14. A license issued by the committee pursuant to Section 2697.12 shall be valid for two years and thereafter shall be subject to the renewal requirements described in Sections 2697.16 and 2697.18.~~

~~2697.16. (a) Each applicant for licensure shall pay a nonrefundable application and processing fee, to be fixed as described in subdivision (b), at the time the application is filed.~~

~~(b) The application and processing fee shall be fixed by the committee by May 1 of each year, to become effective on July 1 of that year. The fee shall be fixed in an amount necessary to cover the reasonable regulatory costs of processing applications pursuant to this chapter as projected for the fiscal year commencing on the date the fees become effective.~~

~~(c) Each applicant who qualifies for licensure, as a condition precedent to the issuance of a license shall pay an initial license fee in an amount fixed by the committee consistent with this section in an amount sufficient to cover the reasonable regulatory costs of carrying out the provisions of this chapter.~~

~~(d) The biennial renewal fee shall be fixed by the committee consistent with this section and shall be sufficient to cover the reasonable regulatory costs of carrying out the provisions of this chapter.~~

~~2697.18. The committee shall renew a license if an applicant meets all of the following requirements:~~

~~(a) Pays the renewal fee as established by the committee.~~

~~(b) Submits proof of satisfactory completion of continuing education, as determined by the committee.~~

~~(c) Submits proof of current emergency cardiac care certification meeting the requirements of subdivision (c) of Section 2697.12.~~

~~(d) Demonstrates that his or her license is otherwise in good standing, including, that the applicant for renewal possesses a current, unencumbered certification from a nationally accredited athletic trainer certification agency approved by the committee.~~

~~2697.20. (a) The practice of athletic training is the professional treatment of a patient for risk management and injury and illness prevention; the clinical evaluation and assessment of a patient for an injury or illness sustained or exacerbated while participating in physical activity, or both; the immediate care and treatment of a patient for an injury or illness sustained or exacerbated while participating in physical activity, or both; and the rehabilitation and reconditioning of a patient's injury or illness, or both. An athletic trainer shall refer a patient to an appropriate licensed health care provider when the treatment or management of the injury, illness, or condition is not within the scope of practice of an athletic trainer.~~

~~(b) No licensee shall provide, offer to provide, or represent that he or she is qualified to provide any treatment that he or she is not qualified to perform by his or her education, training, or experience, or that he or she is otherwise prohibited by law from performing.~~

~~(c) Nothing in this chapter shall authorize an athletic trainer to perform grade 5 joint mobilizations.~~

~~(d) An athletic trainer shall render treatment under the direction of a physician and surgeon licensed by the board, an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California, or a doctor of chiropractic licensed by the State Board of Chiropractic Examiners who shall order and oversee the athletic trainer and shall be responsible for the athletic training activities performed by the athletic trainer. This direction shall be provided by verbal order when the directing physician and surgeon, osteopathic physician and surgeon, or doctor of chiropractic is present and by written order or by athletic training treatment plans or protocols, to be established by the physician and surgeon, osteopathic physician and surgeon, or doctor of chiropractic, when the directing physician and surgeon, osteopathic physician and surgeon, or doctor of chiropractic is not present.~~

~~(c) Notwithstanding any other provisions of law and consistent with the provisions of this chapter, the committee may establish other alternative mechanisms for the adequate supervision of an athletic trainer.~~

~~2697.22. The requirements of this chapter do not apply to the following:~~

~~(a) An athletic trainer licensed, certified, or registered in another state who is in California temporarily to engage in the practice of athletic training for, among other things, an athletic or sporting event.~~

~~(b) An athletic trainer licensed, certified, or registered in another state who is invited by a sponsoring organization, such as the United States Olympic Training Center, to temporarily provide athletic training services under his or her state's scope of practice.~~

~~(c) A student enrolled in an athletic training education program, while participating in educational activities under the supervision and guidance of an athletic trainer licensed under this chapter.~~

~~(d) A member of the United States Armed Forces, licensed, certified, or registered in another state, as part of his or her federal employment in California for a limited time.~~

~~2697.24. Nothing in this chapter shall be construed to limit, impair, or otherwise apply to the practice of any person licensed and regulated under any other chapter of Division 2 (commencing with Section 500).~~

~~2697.26. The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon an athletic trainer's license after a hearing for unprofessional conduct that includes, but is not limited to, a violation of this chapter or the regulations adopted by the committee pursuant to this chapter.~~

~~2697.28. There is established in the Contingent Fund of the Medical Board of California the Athletic Trainers Account. All fees collected pursuant to this chapter shall be paid into the account. These fees shall be available to the committee, upon appropriation by the Legislature, for the regulatory purpose of carrying out the provisions of this chapter.~~

1 ~~2697.30. This chapter shall become operative on January 1,~~
2 ~~2013.~~

O

CURRENT BILL STATUS

MEASURE : A.B. No. 518
AUTHOR(S) : Wagner.
TOPIC : Elder and dependent adult abuse: mandated reporters.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 03/23/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/06/2011
LAST HIST. ACTION : In committee: Hearing postponed by committee.
COMM. LOCATION : SEN BANKING AND FINANCIAL INSTITUTIONS

TITLE : An act to repeal Section 7480 of the Government Code, and to amend Section 15630.1 of, and to amend and repeal Sections 15633, 15634, 15640, and 15655.5 of, the Welfare and Institutions Code, relating to elder and dependent adult abuse.

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 518

Introduced by Assembly Member Wagner

February 15, 2011

~~An act to amend Section 15630.1 of the Welfare and Institutions Code, relating to elder abuse.~~ *An act to repeal Section 7480 of the Government Code, and to amend Section 15630.1 of, and to amend and repeal Sections 15633, 15634, 15640, and 15655.5 of, the Welfare and Institutions Code, relating to elder and dependent adult abuse.*

LEGISLATIVE COUNSEL'S DIGEST

AB 518, as amended, Wagner. Elder and dependent adult abuse: mandated reporters.

Existing law, the Elder Abuse and Dependent Adult Civil Protection Act, establishes procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse, including, but not limited to financial abuse, as defined. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. A violation of the reporting requirements by a mandated reporter is a misdemeanor. Existing law, which will be repealed on January 1, 2013, defines who is a mandated reporter of suspected financial abuse of an elder or dependent adult. A violation of the financial abuse reporting requirements is subject to civil penalties.

This bill would delete the January 1, 2013, repeal date *and make conforming changes*.

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 7480 of the Government Code, as amended by Section 2 of Chapter 234 of the Statutes of 2008, is repealed.

~~7480. Nothing in this chapter prohibits any of the following:~~

~~(a) The dissemination of any financial information that is not identified with, or identifiable as being derived from, the financial records of a particular customer.~~

~~(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney, a county adult protective services office when investigating the financial abuse of an elder or dependent adult, or a long-term care ombudsman when investigating the financial abuse of an elder or dependent adult, may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall furnish, a statement setting forth the following information with respect to a customer account specified by the requesting party for a period 30 days prior to, and up to 30 days following, the date of occurrence of the alleged illegal act involving the account:~~

~~(1) The number of items dishonored.~~

~~(2) The number of items paid that created overdrafts.~~

~~(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.~~

~~(4) The dates and amounts of deposits and debits and the account balance on these dates.~~

~~(5) A copy of the signature card, including the signature and any addresses appearing on a customer's signature card.~~

~~(6) The date the account opened and, if applicable, the date the account closed.~~

~~(7) A bank, credit union, or savings association that provides the requesting party with copies of one or more complete account~~

~~the taxpayer; (2) the direct deposit refund was not returned to the Franchise Tax Board; and (3) the refund was deposited directly on a specified date into the account of an accountholder of the financial institution who was not entitled to receive the refund, then the financial institution shall furnish to the Franchise Tax Board the name and address of any coowner, cosigner, or any other person who had access to the funds in the account following the date of direct deposit refund, or if the account has been closed, the name and address of the person who closed the account.~~

~~(s) This section shall become operative on January 1, 2013.~~

~~SECTION 1.~~

SEC. 2. Section 15630.1 of the Welfare and Institutions Code is amended to read:

15630.1. (a) As used in this section, "mandated reporter of suspected financial abuse of an elder or dependent adult" means all officers and employees of financial institutions.

(b) As used in this section, the term "financial institution" means any of the following:

(1) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(2) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

(3) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).

(c) As used in this section, "financial abuse" has the same meaning as in Section 15610.30.

(d) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or dependent adult's financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who reasonably suspects that abuse, based solely on the information

before him or her at the time of reviewing or approving the document, record, or transaction in the case of mandated reporters who do not have direct contact with the elder or dependent adult, shall report the known or suspected instance of financial abuse by telephone immediately, or as soon as practicably possible, and by written report sent within two working days to the local adult protective services agency or the local law enforcement agency.

(2) When two or more mandated reporters jointly have knowledge or reasonably suspect that financial abuse of an elder or a dependent adult for which the report is mandated has occurred, and when there is an agreement among them, the telephone report may be made by a member of the reporting team who is selected by mutual agreement. A single report may be made and signed by the selected member of the reporting team. Any member of the team who has knowledge that the member designated to report has failed to do so shall, thereafter, make that report.

(3) If the mandated reporter knows that the elder or dependent adult resides in a long-term care facility, as defined in Section 15610.47, the report shall be made to the local ombudsman or local law enforcement agency.

(e) An allegation by the elder or dependent adult, or any other person, that financial abuse has occurred is not sufficient to trigger the reporting requirement under this section if both of the following conditions are met:

(1) The mandated reporter of suspected financial abuse of an elder or dependent adult is aware of no other corroborating or independent evidence of the alleged financial abuse of an elder or dependent adult. The mandated reporter of suspected financial abuse of an elder or dependent adult is not required to investigate any accusations.

(2) In the exercise of his or her professional judgment, the mandated reporter of suspected financial abuse of an elder or dependent adult reasonably believes that financial abuse of an elder or dependent adult did not occur.

(f) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars ($1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars ($5,000), which shall be paid by the financial institution that is the employer of the mandated

reporter to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(g) (1) The civil penalty provided for in subdivision (f) shall be recovered only in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty may not be brought for the same violation.

(2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.

(h) As used in this section, "suspected financial abuse of an elder or dependent adult" occurs when a person who is required to report under subdivision (a) observes or has knowledge of behavior or unusual circumstances or transactions, or a pattern of behavior or unusual circumstances or transactions, that would lead an individual with like training or experience, based on the same facts, to form a reasonable belief that an elder or dependent adult is the victim of financial abuse as defined in Section 15610.30.

(i) Reports of suspected financial abuse of an elder or dependent adult made by an employee or officer of a financial institution pursuant to this section are covered under subdivision (b) of Section 47 of the Civil Code.

SEC. 3. Section 15633 of the Welfare and Institutions Code, as amended by Section 5 of Chapter 140 of the Statutes of 2005, is amended to read:

15633. (a) The reports made pursuant to Sections 15630, 15630.1, and 15631 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality required by this chapter is a misdemeanor punishable by not more than six months in the county jail, by a fine of five hundred dollars ($500), or by both that fine and imprisonment.

(b) Reports of suspected abuse of an elder or dependent adult and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of information or the identity of the reporting party is permitted under Section 15633.5.

(2) (A) Persons who are trained and qualified to serve on multidisciplinary personnel teams may disclose to one another information and records that are relevant to the prevention, identification, or treatment of abuse of elderly or dependent persons.

(B) Except as provided in subparagraph (A), any personnel of the multidisciplinary team or agency that receives information pursuant to this chapter, shall be under the same obligations and subject to the same confidentiality penalties as the person disclosing or providing that information. The information obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(c) This section shall not be construed to allow disclosure of any reports or records relevant to the reports of abuse of an elder or dependent adult if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of the abuse, nor shall it be construed to prohibit the disclosure by a financial institution of any reports or records relevant to the reports of abuse of an elder or dependent adult if the disclosure would be required of a financial institution by otherwise applicable state or federal law or court order.

~~(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

SEC. 4. Section 15633 of the Welfare and Institutions Code, as added by Section 6 of Chapter 140 of the Statutes of 2005, is repealed.

~~15633. (a) The reports made pursuant to Sections 15630 and 15631 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality required by this chapter is a misdemeanor punishable by not more than six months in the county jail, by a fine of five hundred dollars ($500), or by both that fine and imprisonment.~~

~~(b) Reports of suspected elder or dependent adult abuse and information contained therein may be disclosed only to the following:~~

~~(1) Persons or agencies to whom disclosure of information or the identity of the reporting party is permitted under Section 15633.5.~~

CURRENT BILL STATUS

MEASURE : A.B. No. 783
AUTHOR(S) : Hayashi.
TOPIC : Professional corporations: licensed physical therapists and occupational therapists.
+LAST AMENDED DATE : 04/07/2011

TYPE OF BILL :
Inactive
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/28/2011
LAST HIST. ACTION : From committee without further action pursuant to Joint Rule 62(a).
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
COMM. ACTION DATE : 06/27/2011
COMM. ACTION : Set, second hearing. Failed passage in Committee.

TITLE : An act to amend Section 2406 of the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to professional corporations.

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 783

Introduced by Assembly Member Hayashi

February 17, 2011

An act to amend Section 2406 of the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to ~~professional corporations, and declaring the urgency thereof, to take effect immediately.~~ *professional corporations.*

LEGISLATIVE COUNSEL'S DIGEST

AB 783, as amended, Hayashi. Professional corporations: licensed physical *therapists and occupational* therapists.

Existing law regulating professional corporations provides that certain healing arts practitioners may be shareholders, officers, directors, or professional employees of a medical corporation ~~or a~~, podiatric medical corporation, *or a chiropractic corporation,* subject to certain limitations.

This bill would add licensed physical therapists *and licensed occupational therapists* to the list of healing arts practitioners who may be shareholders, officers, directors, or professional employees of those corporations. The bill would also make conforming changes to a related provision.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ *majority*. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2406 of the Business and Professions
2 Code is amended to read:
3 2406. A medical corporation or podiatry corporation is a
4 corporation that is authorized to render professional services, as
5 defined in Sections 13401 and 13401.5 of the Corporations Code,
6 so long as that corporation and its shareholders, officers, directors,
7 and employees rendering professional services who are physicians
8 and surgeons, psychologists, registered nurses, optometrists,
9 podiatrists, chiropractors, acupuncturists, naturopathic doctors,
10 physical therapists, or, in the case of a medical corporation only,
11 physician assistants, marriage and family therapists, or clinical
12 social workers are in compliance with the Moscone-Knox
13 Professional Corporation Act, the provisions of this article and all
14 other statutes and regulations now or hereafter enacted or adopted
15 pertaining to the corporation and the conduct of its affairs.
16 With respect to a medical corporation or podiatry corporation,
17 the governmental agency referred to in the Moscone-Knox
18 Professional Corporation Act is the board.
19 SEC. 2. Section 13401.5 of the Corporations Code is amended
20 to read:
21 13401.5. Notwithstanding subdivision (d) of Section 13401
22 and any other provision of law, the following licensed persons
23 may be shareholders, officers, directors, or professional employees
24 of the professional corporations designated in this section so long
25 as the sum of all shares owned by those licensed persons does not
26 exceed 49 percent of the total number of shares of the professional
27 corporation so designated herein, and so long as the number of
28 those licensed persons owning shares in the professional
29 corporation so designated herein does not exceed the number of
30 persons licensed by the governmental agency regulating the
31 designated professional corporation:
32 (a) Medical corporation.
33 (1) Licensed doctors of podiatric medicine.
34 (2) Licensed psychologists.
35 (3) Registered nurses.
36 (4) Licensed optometrists.
37 (5) Licensed marriage and family therapists.
38 (6) Licensed clinical social workers.

(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.
(10) Naturopathic doctors.
(11) Licensed physical therapists.
(12) Licensed occupational therapists.
(b) Podiatric medical corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(8) Licensed physical therapists.
(9) Licensed occupational therapists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.
(d) Speech-language pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech-language pathologists.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage and family therapists.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(9) Licensed acupuncturists.

(10) Naturopathic doctors.
(g) Marriage and family therapy corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage and family therapists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(3) Licensed acupuncturists.
(4) Naturopathic doctors.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Naturopathic doctors.
(k) Chiropractic corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed acupuncturists.
(9) Naturopathic doctors.

(10) Licensed physical therapists.
(11) Licensed occupational therapists.
(*l*) Acupuncture corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage and family therapists.
(7) Licensed clinical social workers.
(8) Licensed physician assistants.
(9) Licensed chiropractors.
(10) Naturopathic doctors.
(m) Naturopathic doctor corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed physician assistants.
(5) Licensed chiropractors.
(6) Licensed acupuncturists.
(7) Licensed physical therapists.
(8) Licensed doctors of podiatric medicine.
(9) Licensed marriage, family, and child counselors.
(10) Licensed clinical social workers.
(11) Licensed optometrists.
(n) Dental corporation.
(1) Licensed physicians and surgeons.
(2) Dental assistants.
(3) Registered dental assistants.
(4) Registered dental assistants in extended functions.
(5) Registered dental hygienists.
(6) Registered dental hygienists in extended functions.
(7) Registered dental hygienists in alternative practice.

~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to authorize licensed physical therapists to be shareholders, officers, directors, or professional employees of~~

1 ~~medical corporations and podiatric medical corporations as soon~~
2 ~~as possible, it is necessary that this act take effect immediately.~~

O

CURRENT BILL STATUS

MEASURE : A.B. No. 800
AUTHOR(S) : Huber.
TOPIC : Boards and commissions: time reporting.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/27/2011
LAST HIST. ACTION : In committee: Set, second hearing. Held under submission.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to add Section 11564.10 to the Government Code, relating to boards and commissions.

ASSEMBLY BILL No. 800

Introduced by Assembly Member Huber

February 17, 2011

An act to add Section 11564.10 to the Government Code, relating to boards and commissions.

LEGISLATIVE COUNSEL'S DIGEST

AB 800, as introduced, Huber. Boards and commissions: time reporting.

Existing law establishes various boards and commissions within state government. Existing law sets forth various standards and procedures that govern the amount of salary or per diem expenses that a member of a board or commission may earn or claim.

This bill would require that a member of a board or commission that meets specified requirements submit a quarterly report to the chair of the board or commission that details the time worked by the member fulfilling the duties of his or her position. This bill would also require that the chair of the board or commission submit a quarterly report to specified committees of the Legislature that contains copies of all of the time reports received by the chair.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 11564.10 is added to the Government
2 Code, to read:

11564.10. (a) Notwithstanding any other law, a member of a board or commission that meets the requirements set out in subdivision (c) shall submit a quarterly report to the chair of that board or commission that details the time worked by the member fulfilling the duties of his or her position. The time worked shall be reported in increments of hours and tenths of hours.

(b) Notwithstanding Section 10231.5, the chair of the board or commission shall submit a quarterly report to the Senate Committee on Rules, the Assembly Committee on Rules, and any policy committee of the Legislature that has jurisdiction over the board or commission that contains copies of the reports received by the chair pursuant to subdivision (c) for the past quarter.

(c) This section shall apply to a member of a board or commission that meets all of the following requirements:

(1) The member was appointed to the position.

(2) The member receives a salary that is greater than the per diem expenses claimed by the member in furtherance of his or her duties.

(3) The member's salary is set by statute.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 958
AUTHOR(S) : Bill Berryhill.
TOPIC : Regulatory boards: limitations periods.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 03/10/2011
LAST HIST. ACTION : Referred to Com. on B., P. & C.P.
COMM. LOCATION : ASM BUSINESS, PROFESSIONS AND CONSUMER PROTECTION

TITLE : An act to add Section 110.5 to, and to repeal Sections 1670.2, 2230.5, 2960.05, 3137, 3750.51, 4982.05, 4990.32, 5561, 5661, 7686.5, 9884.20, and 9889.8 of, the Business and Professions Code, relating to regulatory boards.

ASSEMBLY BILL No. 958

Introduced by Assembly Member Bill Berryhill

February 18, 2011

An act to add Section 110.5 to, and to repeal Sections 1670.2, 2230.5, 2960.05, 3137, 3750.51, 4982.05, 4990.32, 5561, 5661, 7686.5, 9884.20, and 9889.8 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

AB 958, as introduced, Bill Berryhill. Regulatory boards: limitations periods.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law requires these boards to file disciplinary action accusations against licensees for various violations within a specified limitations period particular to each board.

This bill would delete those specified limitations periods for each board and would instead impose a specified limitations period on all boards within the Department of Consumer Affairs.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 110.5 is added to the Business and
2 Professions Code, to read:
3 110.5. (a) Notwithstanding any other provision of law and
4 except as provided in subdivisions (b) and (c), any accusation filed

against a licensee of a board described in Section 101, pursuant to Section 11503 of the Government Code, shall be filed within one year after the board discovers the act or omission alleged as the ground for disciplinary action, or within four years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

(b) If an alleged act or omission involves a minor, the four-year limitations period provided for by subdivision (a) shall be tolled until the minor reaches the age of majority.

(c) If a licensee intentionally conceals evidence of wrongdoing, the four-year limitations period provided for by subdivision (a) shall be tolled during that period of concealment.

SEC. 2. Section 1670.2 of the Business and Professions Code is repealed.

~~1670.2. (a) Except as otherwise provided in this section, any proceeding initiated by the board against a licensee for the violation of any provision of this chapter shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging fraud or willful misrepresentation is not subject to the limitation in subdivision (a).~~

~~(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation in subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.~~

~~(d) If an alleged act or omission involves any conduct described in subdivision (c) of Section 1680 committed on a minor, the seven-year limitations period in subdivision (a) and the 10-year limitations period in subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging conduct described in subdivision (c) of Section 1680 not committed on a minor shall~~

~~be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging conduct received by the board on and after January 1, 2005.~~

~~(f) In any allegation, accusation, or proceeding described in this section, the limitations period in subdivision (a) shall be tolled for the period during which material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

SEC. 3. Section 2230.5 of the Business and Professions Code is repealed.

~~2230.5. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitation provided for by subdivision (a).~~

~~(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation provided for by subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.~~

~~(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary~~

~~action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

SEC. 4. Section 2960.05 of the Business and Professions Code is repealed.

~~2960.05. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

~~(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.~~

~~(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

SEC. 5. Section 3137 of the Business and Professions Code is repealed.

~~3137. (a) Except as otherwise provided in this section, any accusation filed against a licensee pursuant to Section 11503 of the Government Code for the violation of any provision of this chapter shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging fraud or willful misrepresentation is not subject to the limitation in subdivision (a).~~

~~(c) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the limitation in subdivision (a) upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts.~~

~~(d) If an alleged act or omission involves any conduct described in Section 726 committed on a minor, the 10-year limitations period in subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging conduct described in Section 726 shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging conduct received by the board on and after January 1, 2006.~~

~~(f) In any allegation, accusation, or proceeding described in this section, the limitations period in subdivision (a) shall be tolled for the period during which material evidence necessary for~~

~~prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

SEC. 6. Section 3750.51 of the Business and Professions Code is repealed.

~~3750.51. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

~~(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.~~

~~(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

SEC. 7. Section 4982.05 of the Business and Professions Code is repealed.

~~4982.05. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section~~

~~11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

~~(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.~~

~~(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (c) shall be tolled until the minor reaches the age of majority.~~

~~(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

~~(g) For purposes of this section, "discovers" means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:~~

~~(1) The date the board received a complaint or report describing the act or omission.~~

~~(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.~~

~~(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.~~

SEC. 8. Section 4990.32 of the Business and Professions Code is repealed.

~~4990.32. (a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

~~(c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.~~

~~(d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.~~

~~(e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority. However, if the board discovers an alleged act of sexual contact with a minor under Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after the limitations periods described in this subdivision have otherwise expired, and there is independent evidence that corroborates the allegation, an accusation shall be filed within three years from the date the board discovers that alleged act.~~

~~(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for~~

~~prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.~~

~~(g) For purposes of this section, "discovers" means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:~~

~~(1) The date the board received a complaint or report describing the act or omission.~~

~~(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.~~

~~(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.~~

SEC. 9. Section 5561 of the Business and Professions Code is repealed.

~~5561. All accusations against licensees charging the holder of a license issued under this chapter with the commission of any act constituting a cause for disciplinary action shall be filed with the board within five years after the board discovers, or through the use of reasonable diligence should have discovered, the act or omission alleged as the ground for disciplinary action, whichever occurs first, but not more than 10 years after the act or omission alleged as the ground for disciplinary action. However, with respect to an accusation alleging a violation of Section 5579, the accusation may be filed within three years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5579.~~

SEC. 10. Section 5661 of the Business and Professions Code is repealed.

~~5661. All accusations against a licensee shall be filed within three years after the board discovers, or through the use of reasonable diligence should have discovered, the act or omission alleged as the ground for disciplinary action or within six years after the act or omission alleged as the ground for disciplinary action, whichever occurs first. However, with respect to an accusation alleging a violation of Section 5667, the accusation may be filed within three years after the discovery by the board~~

~~of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5667.~~

~~If any accusation is not filed within the time provided in this section, no action against a licensee shall be commenced under this article.~~

SEC. 11. Section 7686.5 of the Business and Professions Code is repealed.

~~7686.5. All accusations against licensees shall be filed with the bureau within two years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the bureau, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within three years after such discovery.~~

SEC. 12. Section 9884.20 of the Business and Professions Code is repealed.

~~9884.20. All accusations against automotive repair dealers shall be filed within three years after the performance of the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging fraud or misrepresentation as a ground for disciplinary action, the accusation may be filed within two years after the discovery, by the bureau, of the alleged facts constituting the fraud or misrepresentation.~~

SEC. 13. Section 9889.8 of the Business and Professions Code is repealed.

~~9889.8. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (d) of Section 9889.3, the accusation may be filed within two years after the discovery by the bureau of the alleged facts constituting the fraud or misrepresentation prohibited by that section.~~

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CURRENT BILL STATUS

MEASURE : A.B. No. 1003
AUTHOR(S) : Smyth.
TOPIC : Professional and vocational licenses.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/20/2011
LAST HIST. ACTION : From printer. May be heard in committee March 22.

TITLE : An act relating to professional and vocational licenses.

ASSEMBLY BILL No. 1003

Introduced by Assembly Member Smyth

February 18, 2011

An act relating to professional and vocational licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1003, as introduced, Smyth. Professional and vocational licenses.

Under existing law, boards within the Department of Consumer Affairs are responsible for the licensure and regulation of various professions and vocations. Existing law also provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the State Department of Public Health.

This bill would declare the intent of the Legislature to enact legislation that would require that all professional and vocational licenses currently issued by the Department of Consumer Affairs and its affiliate boards, and specified licenses issued by the State Department of Public Health, be issued from one central location and that the current regulatory, oversight, and enforcement authority with respect to holders of those licenses remain with those boards and the department currently performing those functions.

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

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation that would require that all professional and vocational
3 licenses currently issued by the Department of Consumer Affairs

and its affiliate boards, bureaus, and commissions, and those licenses issued by the State Department of Public Health pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code be issued from one central location. It is also the intent of the Legislature that the current regulatory, oversight, and enforcement authority with respect to holders of those licenses remain with those boards, bureaus, and commissions and the department currently performing those functions.

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CURRENT BILL STATUS

MEASURE : A.B. No. 386
AUTHOR(S) : Galgiani.
TOPIC : Prisons: telehealth systems.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 05/11/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/18/2011
LAST HIST. ACTION : In committee: Hearing postponed by committee.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to add Section 5023.3 to the Penal Code, relating to prisoners.

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 27, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 386

Introduced by Assembly Member Galgiani

February 14, 2011

An act to add Section 5023.3 to the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 386, as amended, Galgiani. Prisons: telehealth systems.

Existing law, the Telemedicine Development Act of 1996, regulates the practice of telemedicine, defined as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications, by a health care practitioner, as defined. Existing law establishes that it is the intent of the Legislature that the Department of Corrections and Rehabilitation operate in the most cost-effective and efficient manner possible when purchasing health care services for inmates.

This bill would state the Legislature's findings and declarations on the use of telehealth in the state's prisons. This bill would require the department, by January 1, 2013, to include protocols within its existing guidelines for determining when telehealth services are appropriate, and would require the department to require an operational telehealth services program at all adult institutions by January 1, 2016. The bill would require the department to schedule a patient for an evaluation with a distant physician when it is determined to be medically necessary, and would allow the department to use telehealth only when it is in the

best interest of the health and safety of the inmate patient. The bill would require the department to ensure that telehealth not be used to supplant civil service physicians and dentists.

The bill would require the department to report to the Legislature, as provided, by March 1, 2013, and every year thereafter, regarding the department's implementation of statewide telehealth services. This bill would render this reporting requirement inoperative on March 1, 2018.

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

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) It is the intent of the Legislature to require the Department
4 of Corrections and Rehabilitation to implement and maintain the
5 use of telehealth in state prisons.
6 (b) Telehealth improves inmates' access to health care by
7 enabling correctional systems to expand their provider network to
8 include physicians located outside the immediate vicinity of
9 prisons, particularly for inmates housed in remote areas of the state
10 with shortages of health care.
11 (c) The department's prison telehealth program began in 1997
12 as a pilot project for mental health inmates at Pelican Bay State
13 Prison and was successful at improving inmates' access to mental
14 health care. Accordingly, the department decided to expand the
15 program to provide mental health as well as medical specialty
16 services at other prisons. Currently, all of the state prisons are
17 equipped to provide basic telehealth services.
18 SEC. 2. Section 5023.3 is added to the Penal Code, to read:
19 5023.3. (a) In order to maximize the benefits that come with
20 the use of telehealth in the state's prisons, the department shall do
21 all of the following:
22 (1) By January 1, 2013, include within the department's existing
23 guidelines, protocols for determining when telehealth services are
24 medically appropriate and in the best interest of the health and
25 safety of the inmate patient.
26 (2) Require, by January 1, 2016, an operational telehealth
27 services program at all adult institutions within the department.
28 The program shall include all of the following:

(A) Specific goals and objectives for maintaining and expanding services and encounters provided by the telehealth services program, including store and forward telehealth technology.

(B) An information technology support infrastructure that will allow telehealth to be used at each adult prison.

(C) Specific guidelines for determining when and where telehealth would be the preferred delivery method for health care.

(D) Guidelines and protocols for appropriate use and expansion of store and forward telehealth technology in state prisons. For purposes of this section, "store and forward telehealth" means the transmission of medical information to be reviewed at a later time and at a distant site by a physician without the patient being present.

(3) Schedule a patient for evaluation with a distant physician via telehealth if and when it is determined that it is medically necessary.

(4) Utilize telehealth only when it is in the best interest of the health and safety of the inmate patient.

(5) Ensure that telehealth shall not be used to supplant civil service physician and dental positions.

(b) (1) On March 1, 2013, and each March 1 thereafter, the department shall report all of the following to the Joint Legislative Budget Committee, the Assembly Committee on Appropriations, the Assembly Committee on Budget, the Assembly Committee on Health, the Assembly Committee on Public Safety, the Senate Committee on Appropriations, the Senate Committee on Budget and Fiscal Review, the Senate Committee on Health, and the Senate Committee on Public Safety:

(A) The extent to which the department achieved the objectives developed pursuant to this section, as well as the most significant reasons for achieving or not achieving those objectives.

(B) The extent to which the department is operating a statewide telehealth services program, as set forth in this section, that provides telehealth services to every adult prison within the department, as well as the most significant reasons for achieving or not achieving that objective.

(C) A description of planned and implemented initiatives necessary to accomplish the next 12 months' objectives for achieving the goals developed pursuant to this section.

1 (2) The requirement for submitting a report imposed under this
2 subdivision is inoperative on March 1, 2018, pursuant to Section
3 10231.5 of the Government Code.
4 *(c) As used in this section, "telehealth" is defined as the mode*
5 *of delivering health care services and public health via information*
6 *and communication technologies to facilitate the diagnosis,*
7 *consultation, treatment, education, care management, and*
8 *self-management of a patient's health care while the patient is at*
9 *the originating site and the health care provider is at a distant*
10 *site. Telehealth facilitates patient self-management and caregiver*
11 *support for patients and includes synchronous interactions and*
12 *asynchronous store and forward transfers.*

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CURRENT BILL STATUS

MEASURE : A.B. No. 415
AUTHOR(S) : Logue (Principal coauthors: Chesbro, Pan, and V. Manuel Pérez).
TOPIC : Healing arts: telehealth.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 07/07/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/07/2011
LAST HIST. ACTION : Read second time and amended. Re-referred to Com. on APPR.
COMM. LOCATION : SEN APPROPRIATIONS
HEARING DATE : 08/15/2011

TITLE : An act to repeal and add Section 2290.5 of the Business and Professions Code, to repeal and add Section 1374.13 of the Health and Safety Code, to repeal and add Section 10123.85 of the Insurance Code, and to amend Sections 14132.72 and 14132.725 of the Welfare and Institutions Code, relating to telehealth.

AMENDED IN SENATE JULY 7, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 415

Introduced by Assembly Member Logue
(Principal coauthors: Assembly Members Chesbro, Pan, and V. Manuel Pérez)

February 14, 2011

An act to repeal and add Section 2290.5 of the Business and Professions Code, to repeal and add Section 1374.13 of the Health and Safety Code, to repeal and add Section 10123.85 of the Insurance Code, and to amend Sections 14132.72 and 14132.725 of the Welfare and Institutions Code, relating to telehealth.

LEGISLATIVE COUNSEL'S DIGEST

AB 415, as amended, Logue. Healing arts: telehealth.

(1) Existing law provides for the licensure and regulation of various healing arts professions by various boards within the Department of Consumer Affairs. A violation of specified provisions is a crime. Existing law defines telemedicine, for the purpose of its regulation, to mean the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law requires a health

care practitioner, as defined, to ~~obtained~~ *obtain* verbal and written informed consent from the patient or the patient's legal representative before telemedicine is delivered. Existing law also imposes various requirements with regard to the provision of telemedicine by health care service plans, health insurers, or under the Medi-Cal program, including a prohibition on requiring face-to-face contact between a health care provider and a patient for services appropriately provided through telemedicine, subject to certain contracts or policies. Existing law provides that health care service plans and health insurers shall not be required to pay for consultations provided by telephone or facsimile machines. Existing law provides that a willful violation of the provisions governing health care service plans is a crime.

This bill would delete the provisions regarding telemedicine as described above, and would instead set forth provisions relating to telehealth, as defined. This bill would require a health care provider, as defined, to, prior to the delivery health care via telehealth, verbally inform the patient that telehealth may be used and obtain verbal consent from the patient. This bill would provide that failure to comply with this provision constitutes unprofessional conduct. This bill would also set forth provisions for the payment of telehealth services by health care service plans and health insurers. By changing the definition of a crime applicable to health care service plans, the bill would impose a state-mandated local program.

(2) Existing law prohibits a requirement of face-to-face contact between a health care provider and a patient under the Medi-Cal program for services appropriately provided through telemedicine, subject to reimbursement policies developed by the Medi-Cal program to compensate licensed health care providers who provide health care services, that are otherwise covered by the Medi-Cal program, through telemedicine.

This bill would, instead, prohibit a requirement of in-person contact between a health care provider and patient under the Medi-Cal program for any service otherwise covered by the Medi-Cal program when the service is appropriately provided by telehealth, as defined, and would make related changes.

(3) Existing law, until January 1, 2013, and to the extent that federal financial participation is available, authorizes, under the Medi-Cal program, teleophthalmology and teledermatology by store and forward, as defined.

This bill would delete the repeal of the above-described authorization.

(4)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Telehealth Advancement Act of 2011.
3 SEC. 2. The Legislature finds and declares all of the following:
4 (a) Lack of primary care providers, specialty providers, and
5 transportation continue to be significant barriers to access to health
6 services in medically underserved rural and urban areas.
7 (b) Parts of California have difficulty attracting and retaining
8 health professionals, as well as supporting local health facilities
9 to provide a continuum of health care.
10 (c) Many health care providers in medically underserved areas
11 are isolated from mentors, colleagues, and the information
12 resources necessary to support them personally and professionally.
13 (d) It is the intent of the Legislature to create a parity of
14 telehealth with other health care delivery modes, to actively
15 promote telehealth as a tool to advance stakeholders' goals
16 regarding health status and health system improvement, and to
17 create opportunities and flexibility for telehealth to be used in new
18 models of care and system improvements.
19 (e) Telehealth is a mode of delivering health care services and
20 public health utilizing information and communication technologies
21 to enable the diagnosis, consultation, treatment, education, care
22 management, and self-management of patients at a distance from
23 health care providers.
24 (f) Telehealth is part of a multifaceted approach to address the
25 problem of inadequate provider distribution and the development
26 of health systems in medically underserved areas by improving
27 communication capabilities and providing convenient access to
28 up-to-date information, consultations, and other forms of support.
29 (g) The use of information and telecommunication technologies
30 to deliver health services has the potential to reduce costs, improve

quality, change the conditions of practice, and improve access to health care, particularly in rural and other medically underserved areas.

(h) Telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of medical care in the local area, strengthening the health infrastructure, and preserving health care-related jobs.

(i) Consumers of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

(j) It is the intent of the Legislature that the fundamental health care provider-patient relationship cannot only be preserved, but can also be augmented and enhanced, through the use of telehealth as a tool to be integrated into practices.

(k) Without the assurance of payment and the resolution of legal and policy barriers, the full potential of telehealth will not be realized.

SEC. 3. Section 2290.5 of the Business and Professions Code is repealed.

SEC. 4. Section 2290.5 is added to the Business and Professions Code, to read:

2290.5. (a) For purposes of this division, the following definitions shall apply:

(1) "Asynchronous store and forward" means the transmission of a patient's medical information from an originating site to the health care provider at a distant site without the presence of the patient.

(2) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) "Health care provider" means a person who is licensed under this division.

(4) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications ~~system or where the asynchronous store and forward transfer occurs.~~ *system or where the asynchronous store and forward service originates.*

(5) "Synchronous interaction" means a real-time interaction between a patient and a health care provider located at a distant site.

~~(5)~~

(6) "Telehealth" means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Prior to the delivery of health care via telehealth, the health care provider *at the originating site* shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient's medical record.

(c) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(d) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(e) All laws regarding the confidentiality of health care information and a patient's rights to his or her medical information shall apply to telehealth interactions.

SEC. 5. Section 1374.13 of the Health and Safety Code is repealed.

SEC. 6. Section 1374.13 is added to the Health and Safety Code, to read:

1374.13. (a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health care service plan shall require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through ~~telehealth, and every health care service plan shall adopt payment policies consistent with this section to compensate health care providers who provide covered health care services through~~ telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, *and between the health care service plan and its participating providers or provider groups.*

(d) For the purposes of payment for covered treatment or services provided through telehealth, the health care service plan shall not limit the type of setting where services are provided for the patient or by the health care provider.

(e) The requirements of this subdivision shall also be operative for health care service plan contracts with the department pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing ~~with Section 14089), or Chapter 8 (commencing with Section 14200).~~ *with Section 14087.96), or Article 2.91 (commencing with Section 14089) of Chapter 7, or Chapter 8 (commencing with Section 14200) of, Part 3 of Division 9 of the Welfare and Institutions Code.*

(f) Nothing in this section shall be interpreted to authorize a health care service plan to require the use of telehealth when the health care provider has determined that it is not appropriate.

SEC. 7. Section 10123.85 of the Insurance Code is repealed.

SEC. 8. Section 10123.85 is added to the Insurance Code, to read:

10123.85. (a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) No health insurer shall require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, ~~and every health insurer shall adopt payment policies consistent~~

1 ~~with this section to compensate health care providers who provide~~
2 ~~covered health care services through telehealth,~~ subject to the terms
3 and conditions of the contract entered into between the policyholder
4 or contractholder and the insurer, *and between the insurer and its*
5 *participating providers or provider groups*.
6 (d) For the purposes of payment for covered treatment or
7 services provided through telehealth, the health insurer shall not
8 limit the type of setting where services are provided for the patient
9 or by the health care provider.
10 (e) Nothing in this section shall be interpreted to authorize a
11 health insurer to require the use of telehealth when the health care
12 provider has determined that it is not appropriate.
13 SEC. 9. Section 14132.72 of the Welfare and Institutions Code
14 is amended to read:
15 14132.72. (a) For purposes of this section, the definitions in
16 subdivision (a) of Section 2290.5 of the Business and Professions
17 Code shall apply.
18 (b) It is the intent of the Legislature to recognize the practice
19 of telehealth as a legitimate means by which an individual may
20 receive health care services from a health care provider without
21 in-person contact with the provider.
22 (c) In-person contact between a health care provider and a
23 patient shall not be required under the Medi-Cal program for
24 services appropriately provided through telehealth, subject to
25 reimbursement policies adopted by the department to compensate
26 a licensed health care provider who provides health care services
27 through telehealth that are otherwise reimbursed pursuant to the
28 Medi-Cal program. *Nothing in this section or the Telehealth*
29 *Advancement Act of 2011 shall be construed to conflict with or*
30 *supersede the provisions of Section 14091.3 of this code or any*
31 *other existing state laws or regulations related to reimbursement*
32 *for services provided by a noncontracted provider.*
33 (d) The department shall not require a health care provider to
34 document a barrier to an in-person visit for Medi-Cal coverage of
35 services provided via telehealth.
36 (e) For the purposes of payment for covered treatment or
37 services provided through telehealth, the department shall not limit
38 the type of setting where services are provided for the patient or
39 by the health care provider.

(f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

SEC. 10. Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725. (a) Commencing July 1, 2006, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient shall not be required under the Medi-Cal program for teleophthalmology and teledermatology by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) For purposes of this section, "teleophthalmology and teledermatology by store and forward" means an asynchronous transmission of medical information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, where the physician or optometrist at the distant site reviews the medical information without the patient being present in real time. A patient receiving teleophthalmology or teledermatology by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician or optometrist, and shall receive an interactive communication with the distant specialist physician or optometrist, upon request. If requested, communication with the distant specialist physician or optometrist may occur either at the time of the consultation, or within 30 days of the patient's notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.

1 (c) Notwithstanding Chapter 3.5 (commencing with Section
2 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
3 the department may implement, interpret, and make specific this
4 section by means of all-county letters, provider bulletins, and
5 similar instructions.
6 (d) On or before January 1, 2008, the department shall report
7 to the Legislature the number and type of services provided, and
8 the payments made related to the application of store and forward
9 telemedicine as provided, under this section as a Medi-Cal benefit.
10 SEC. 11. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 608
AUTHOR(S) : Pan.
TOPIC : Health care coverage: telemedicine.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/17/2011
LAST HIST. ACTION : From printer. May be heard in committee March 19.

TITLE : An act relating to health care.

ASSEMBLY BILL No. 608

Introduced by Assembly Member Pan

February 16, 2011

An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 608, as introduced, Pan. Health care coverage: telemedicine.

Existing law provides that it is the intent of the Legislature to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with the provider. Existing law defines telemedicine as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Existing law sets forth procedures a health care practitioner must follow prior to providing health care through telemedicine.

This bill would declare the intent of the Legislature to enact legislation related to telemedicine.

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

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation related to telemedicine.

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CURRENT BILL STATUS

MEASURE : S.B. No. 946
AUTHOR(S) : Committee on Health (Senators Hernandez (Chair), Alquist, Anderson, Blakeslee, De León, DeSaulnier, Rubio, Strickland, and Wolk).
TOPIC : Public health.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 05/10/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/06/2011
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR. with recommendation: To consent calendar. (Ayes 18. Noes 0.) (July 5). Re-referred to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS
HEARING DATE : 08/17/2011

TITLE : An act to amend Sections 2028.5, 2290.5, 3041, 4980.43, and 4999.90 of the Business and Professions Code, to amend Section 78910.10 of the Education Code, to amend Sections 1367, 1374.13, 1375.1, 1797.98b, 113953.3, 113973, 121022, 123149.5, 127620, 130302, and 130307 of, to add Sections 113807 and 113975 to, and to repeal Sections 130304 and 130309 of, the Health and Safety Code, to amend Section 10123.13, 10123.147, 10123.85, 10181.11, 10198.7, 10953, and 10959 of the Insurance Code, and to amend Sections 5705, 5708, 5710, 5716, 5724, 5750.1, 14132.72, 14132.725, and 14132.73 of the Welfare and Institutions Code, relating to public health.

AMENDED IN SENATE MAY 10, 2011

SENATE BILL No. 946

Introduced by Committee on Health (Senators Hernandez (Chair), Alquist, Anderson, Blakeslee, De León, DeSaulnier, Rubio, Strickland, and Wolk)

March 31, 2011

An act to amend Sections 2028.5, 2290.5, 3041, 4980.43, and 4999.90 of the Business and Professions Code, to amend Section 78910.10 of the Education Code, to amend Sections 1367, 1374.13, 1375.1, 1797.98b, 113953.3, 113973, 121022, 123149.5, 127620, 130302, and 130307 of, to add ~~Section~~ *Sections 113807 and* 113975 to, and to repeal Sections 130304 and 130309 of, the Health and Safety Code, to amend Section 10123.13, 10123.147, 10123.85, 10181.11, 10198.7, 10953, and 10959 of the Insurance Code, and to amend Sections 5705, 5708, 5710, 5716, 5724, 5750.1, 14132.72, 14132.725, and 14132.73 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 946, as amended, Committee on Health. Public health.

(1) Existing law defines "telemedicine" for purposes of various provisions of existing law relating to the practice of medicine, among other things.

This bill would replace the term with "telehealth."

(2) Existing law authorizes a county to establish an emergency medical services fund for reimbursement of emergency medical services (EMS)-related costs, and requires an annual report to the Legislature on the implementation and status of the fund, including the fund balance and the amount of moneys disbursed to physicians and surgeons, for hospitals, and for other emergency medical services purposes.

This bill would provide that no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 2028.5 of the Business and Professions
2 Code is amended to read:
3 2028.5. (a) The board may establish a pilot program to expand
4 the practice of telemedicine, as defined in Section 2290.5, as it
5 read on January 1, 2011, in this state.
6 (b) To implement this pilot program, the board may convene a
7 working group of interested parties from the public and private
8 sectors, including, but not limited to, state health-related agencies,
9 health care providers, health plan administrators, information
10 technology groups, and groups representing health care consumers.
11 (c) The purpose of the pilot program shall be to develop
12 methods, using a telemedicine model, to deliver throughout the
13 state health care to persons with chronic diseases as well as
14 information on the best practices for chronic disease management
15 services and techniques and other health care information as
16 deemed appropriate.
17 (d) The board shall make a report with its recommendations
18 regarding its findings to the Legislature within one calendar year
19 of the commencement date of the pilot program. The report shall
20 include an evaluation of the improvement and affordability of
21 health care services and the reduction in the number of
22 complications achieved by the pilot program.
23 SEC. 2. Section 2290.5 of the Business and Professions Code
24 is amended to read:
25 2290.5. (a) (1) For the purposes of this section, "telehealth"
26 means the practice of health care delivery, diagnosis, consultation,
27 treatment, transfer of medical data, and education using interactive
28 audio, video, or data communications. Neither a telephone
29 conversation nor an electronic mail message between a health care

practitioner and patient constitutes "telehealth" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805 and also includes a person licensed as an optometrist pursuant to Chapter 7 (commencing with Section 3000).

(c) Prior to the delivery of health care via telehealth, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telehealth.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telehealth interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telehealth, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telehealth interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

SEC. 3. Section 3041 of the Business and Professions Code is amended to read:

3041. (a) The practice of optometry includes the prevention and diagnosis of disorders and dysfunctions of the visual system, and the treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services, and is the doing of any or all of the following:

(1) The examination of the human eye or eyes, or its or their appendages, and the analysis of the human vision system, either subjectively or objectively.

(2) The determination of the powers or range of human vision and the accommodative and refractive states of the human eye or eyes, including the scope of its or their functions and general condition.

(3) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training, or orthoptics.

CURRENT BILL STATUS

MEASURE : S.B. No. 399
AUTHOR(S) : Huff.
TOPIC : Healing arts: advertising.
HOUSE LOCATION : SEN

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 02/24/2011
LAST HIST. ACTION : Referred to Com. on RLS.

TITLE : An act to amend Section 651 of the Business and Professions Code, relating to healing arts.

SENATE BILL No. 399

Introduced by Senator Huff

February 16, 2011

An act to amend Section 651 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 399, as introduced, Huff. Healing arts: advertising.

Existing law provides for the licensure and regulation of the practice of various healing arts practitioners by boards under the Department of Consumer Affairs. Existing law makes it unlawful for those practitioners to disseminate a false, fraudulent, misleading, or deceptive statement and defines those terms for its purposes.

This bill would make technical, nonsubstantive changes to those provisions.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 651 of the Business and Professions Code
2 is amended to read:
3 651. (a) It is unlawful for any person licensed under this
4 division or under any initiative act referred to in this division to
5 disseminate or cause to be disseminated any form of public
6 communication containing a false, fraudulent, misleading, or
7 deceptive statement, claim, or image for the purpose of or likely
8 to induce, directly or indirectly, the rendering of professional
9 services or furnishing of products in connection with the
10 professional practice or business for which he or she is licensed.

A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended, or is likely, to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a

university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board

1 certified" in reference to that certification is in accordance with
2 subparagraph (A). A physician and surgeon licensed under Chapter
3 5 (commencing with Section 2000) by the Medical Board of
4 California who is certified by a board or association referred to in
5 clause (i), (ii), or (iii) shall not use the term "board certified" unless
6 the full name of the certifying board is also used and given
7 comparable prominence with the term "board certified" in the
8 statement.
9 For purposes of this subparagraph, a "multidisciplinary board
10 or association" means an educational certifying body that has a
11 psychometrically valid testing process, as determined by the
12 Medical Board of California, for certifying medical doctors and
13 other health care professionals that is based on the applicant's
14 education, training, and experience.
15 For purposes of the term "board certified," as used in this
16 subparagraph, the terms "board" and "association" mean an
17 organization that is an American Board of Medical Specialties
18 member board, an organization with equivalent requirements
19 approved by a physician and surgeon's licensing board, or an
20 organization with an Accreditation Council for Graduate Medical
21 Education approved postgraduate training program that provides
22 complete training in a specialty or subspecialty.
23 The Medical Board of California shall adopt regulations to
24 establish and collect a reasonable fee from each board or
25 association applying for recognition pursuant to this subparagraph.
26 The fee shall not exceed the cost of administering this
27 subparagraph. Notwithstanding Section 2 of Chapter 1660 of the
28 Statutes of 1990, this subparagraph shall become operative July
29 1, 1993. However, an administrative agency or accrediting
30 organization may take any action contemplated by this
31 subparagraph relating to the establishment or approval of specialist
32 requirements on and after January 1, 1991.
33 (C) A doctor of podiatric medicine licensed under Chapter 5
34 (commencing with Section 2000) by the Medical Board of
35 California may include a statement that he or she is certified or
36 eligible or qualified for certification by a private or public board
37 or parent association, including, but not limited to, a
38 multidisciplinary board or association, if that board or association
39 meets one of the following requirements: (i) is approved by the
40 Council on Podiatric Medical Education, (ii) is a board or

association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use

of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

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CURRENT BILL STATUS

MEASURE : S.B. No. 462
AUTHOR(S) : Blakeslee (Coauthor: Senator Runner).
TOPIC : Special education: special education advocates: certification.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/31/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/31/2011
LAST HIST. ACTION : From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.
COMM. LOCATION : SEN APPROPRIATIONS

TITLE : An act to amend Section 56502 of, and to add Chapter 4.2 (commencing with Section 56395) to Part 30 of Division 4 of Title 2 of, the Education Code, relating to special education.

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 4, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL No. 462

Introduced by Senator Blakeslee
(Coauthor: Senator Runner)

February 16, 2011

An act to amend Section 56502 of, and to add Chapter 4.2 (commencing with Section 56395) to Part 30 of Division 4 of Title 2 of, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

SB 462, as amended, Blakeslee. Special education: special education advocates: certification.

Existing law requires local educational agencies to initiate, and individualized education program teams to conduct, meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs, as specified. Existing law also provides that it is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation in a nonadversarial atmosphere, which may not be attended by attorneys or other independent contractors used to provide legal advocacy services, prior to filing a request for a due process hearing. Existing law provides, however, that this does not preclude the parent or public agency from being accompanied and advised by nonattorney representatives in mediation conferences.

This bill would ~~require~~ *authorize a* special education local plan ~~areas~~ *area*, ~~collectively, and~~ in collaboration with the State Department of Education, to develop a voluntary special education advocate certification program for persons who would participate, upon the invitation of a parent, as a member of a pupil's individualized education program team, or, upon the invitation of a parent, in a mediation conference, as specified. The bill would authorize *a* special education local plan ~~areas~~ *area* to provide alternative dispute resolution training, and require the ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences* to administer a test, to persons seeking certification, as specified. The bill would also require the ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences* to certify ~~, and maintain a registry of,~~ persons who have successfully passed the test and completed the training. The bill would require a certified special education advocate to disclose his or her relationship to the pupil or his or her parents, as specified. ~~Because the bill would require local educational agencies to perform additional duties, the bill would impose a state-mandated local program.~~

Existing law provides that upon receipt by the Superintendent of Public Instruction of a written request for a due process hearing regarding a proposal or refusal to initiate or change the identification, assessment, or educational placement of a child with exceptional needs, the provision of a free appropriate public education to the child, or the availability of a program appropriate for the child, including the question of financial responsibility, from the parent or guardian or public agency, the Superintendent or his or her designee or designees immediately shall notify, in writing, all parties and provide them with a list of persons and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. Existing law provides that the Superintendent or his or her designee shall have complete discretion in determining which individuals or groups shall be included on the list.

This bill would require the Superintendent or his or her designee to certify that the listed persons, including *certified* special education advocates, or organizations provide services for free or at a reduced cost.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.2 (commencing with Section 56395) is added to Part 30 of Division 4 of Title 2 of the Education Code, to read:

CHAPTER 4.2. SPECIAL EDUCATION ADVOCATES

56395. It is the intent of the Legislature to protect families of individuals with exceptional needs and to improve the relationship between special education advocates and school districts by providing a voluntary special education advocate certification program.

56395.1. For the purpose of this chapter:

(a) "Alternative dispute resolution" means nonadversarial techniques used to reduce conflict and to come to a mutually beneficial agreement.

(b) "Certified special education advocate" means any nonattorney person, paid or unpaid, who speaks, writes, or works on behalf of a pupil who qualifies as an individual with exceptional needs, as defined in Section 56026, and who has been certified pursuant to the provisions of this chapter.

56395.2. (a) ~~Special~~ *A special* education local plan ~~areas~~ *area*, in collaboration with the department, ~~shall~~ *may* do all of the following:

~~(1) Collectively, and in consultation with the Office of Administrative Hearings, develop a voluntary special education~~*(1) Develop a voluntary special education* advocate certification program that includes a test, which shall be administered by the ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences*, to certify that the person has sufficient knowledge and understanding of the process for resolving special education disputes.

(2) Determine the yearly fee to be charged ~~by a special education local plan area~~ to a person seeking certification as a special education advocate that shall not exceed the reasonable costs of providing training pursuant to subdivision (b).

(3) Notify the ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences* whether a person seeking certification has completed alternative dispute resolution training.

(b) ~~Special education local plan areas are authorized to~~ *A special education local plan area may* provide alternative dispute resolution training at least twice per year for persons seeking certification as a special education advocate. This training also may be offered by an entity pursuant to a contract with a special education local plan area. The training may consist of all of the following:

(1) At least four hours of alternative dispute resolution training.

(2) Relevant ethics training.

(3) Review of relevant special education laws.

56395.3. The ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences* shall do all of the following:

(a) Administer a test, either online or in person, to a person seeking certification as a special education advocate. The test shall be offered in the native language of the person seeking certification as a special education advocate.

(b) Certify a person who has successfully passed the test described in subdivision (a) and who has fulfilled the training requirements listed in subdivision (b) of Section 56395.2. Certification may be granted for a period not to exceed five years.

~~(c) Post a registry of certified special education advocates on its Internet Web site.~~

~~(d)~~

(c) Charge a fee to a person seeking certification as a special education advocate that shall not exceed the reasonable costs of administering the test pursuant to subdivision (a) ~~and maintaining the registry pursuant to subdivision (c)~~.

56395.4. (a) A certified special education advocate shall do all of the following:

(1) Upon the invitation of a parent, speak, write, or work on behalf of a pupil who qualifies as an individual with exceptional needs pursuant to paragraph (1) of subdivision (b) of Section 56341, or subdivision (b) of Section 56500.3.

(2) Register with the ~~Office of Administrative Hearings~~ *Board of Behavioral Sciences* and renew their certification every five years by successfully passing the test described in subdivision (a) of Section 56395.3. Additional training shall not be required in order to renew certification. ~~Registrants shall indicate whether they are a paid or an unpaid advocate. If a person registers as a paid advocate, and he or she is referred by an attorney, he or she shall be required to report the identity of the person who employs him or her.~~

(3) Have a report, available upon request by parents, special education local plan area staff, a school district, or the department, regarding the frequency of their advocacy activities, the subject matter of the issues upon which he or she has worked, the fees, if any, he or she has received for his or her advocacy, and the length of time he or she took to resolve each case.

(4) Disclose at the beginning of an individualized education program team meeting and at the beginning of a mediation session, in writing, his or her relationship to the pupil or his or her parents and indicate whether he or she is receiving payment of any kind for his or her services.

(b) A certified special education advocate shall not be reimbursed by a parent, organization, advocacy group, or school district for the certification fee imposed pursuant to paragraph (2) of subdivision (a) of Section 56395.2 or subdivision ~~(d)~~*(c)* of Section 56395.3.

(c) Nothing in this section shall be construed to allow fees or costs awarded to a prevailing party pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) to be awarded to a special education advocate.

56395.5. (a) A parent, as defined in Section 56028, is not required to be certified pursuant to the provisions of this chapter in order to represent his or her child.

(b) A mediator, as described in subdivision (d) of Section 56500.3, shall require nonparent participants in a mediation session to disclose their relationship to the pupil and their status as an advocate.

SEC. 2. Section 56502 of the Education Code is amended to read:

56502. (a) All requests for a due process hearing shall be filed with the Superintendent in accordance with Section 300.508(a) and (b) of Title 34 of the Code of Federal Regulations.

(b) The Superintendent shall develop a model form to assist parents in filing a request for due process that is in accordance with Section 300.509 of Title 34 of the Code of Federal Regulations.

(c) (1) The party, or the attorney representing the party, initiating a due process hearing by filing a written request with the Superintendent shall provide the other party to the hearing with a copy of the request at the same time as the request is filed with the Superintendent. The due process hearing request notice shall remain confidential. In accordance with Section 1415(b)(7)(A) of Title 20 of the United States Code, the request shall include the following:

(A) The name of the child, the address of the residence of the child, or available contact information in the case of a homeless child, and the name of the school the child is attending.

(B) In the case of a homeless child or youth within the meaning of paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)), available contact information for the child and the name of the school the child is attending.

(C) A description of the nature of the problem of the child relating to the proposed initiation or change, including facts relating to the problem.

(D) A proposed resolution of the problem to the extent known and available to the party at the time.

(2) A party may not have a due process hearing until the party, or the attorney representing the party, files a request that meets the requirements listed in this subdivision.

(d) (1) The due process hearing request notice required by Section 1415(b)(7)(A) of Title 20 of the United States Code shall be deemed to be sufficient unless the party receiving the notice notifies the due process hearing officer and the other party in writing that the receiving party believes the due process hearing request notice has not met the notice requirements. The party providing a hearing officer notification shall provide the notification within 15 days of receiving the due process hearing request notice. Within five days of receipt of the notification, the

hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of Section 1415(b)(7)(A) of Title 20 of the United States Code, and shall immediately notify the parties in writing of the determination.

(2) (A) The response to the due process hearing request notice shall be made within 10 days of receiving the request notice in accordance with Section 1415(c)(2)(B) of Title 20 of the United States Code.

(B) In accordance with Section 300.508(e)(1) of Title 34 of the Code of Federal Regulations, if the local educational agency has not sent a prior written notice under Section 56500.4 and Section 300.503 of Title 34 of the Code of Federal Regulations to the parent regarding the subject matter contained in the due process hearing request of the parent, the response from the local educational agency to the parent shall include all of the following:

(i) An explanation of why the agency proposed or refused to take the action raised in the due process hearing request.

(ii) A description of other options that the individualized education program team considered and the reasons why those options were rejected.

(iii) A description of each assessment procedure, assessment, record, or report the agency used as the basis for the proposed or refused action.

(iv) A description of other factors that are relevant to the proposed or refused action of the agency.

(C) A response by a local educational agency under subparagraph (B) shall not be construed to preclude the local educational agency from asserting that the due process request of the parent was insufficient, where appropriate.

(D) Except as provided under subparagraph (B), the party receiving a due process hearing request notice, within 10 days of receiving the notice, shall send to the other party, in accordance with Section 300.508(f) of Title 34 of the Code of Federal Regulations, a response that specifically addresses the issues raised in the due process hearing request notice.

(e) A party may amend a due process hearing request notice only if the other party consents in writing to the amendment and is given the opportunity to resolve the hearing issue through a meeting held pursuant to Section 1415(f)(1)(B) of Title 20 of the United States Code, or the due process hearing officer grants

permission, except that the hearing officer may only grant permission at any time not later than five days before a due process hearing occurs. The applicable timeline for a due process hearing under this chapter shall recommence at the time the party files an amended notice, including the timeline under Section 1415(f)(1)(B) of Title 20 of the United States Code.

(f) The Superintendent shall take steps to ensure that within 45 days after receipt of the written hearing request the hearing is immediately commenced and completed, including, any mediation requested at any point during the hearing process pursuant to paragraph (2) of subdivision (b) of Section 56501, and a final administrative decision is rendered, unless a continuance has been granted pursuant to Section 56505.

(g) Notwithstanding any procedure set forth in this chapter, a public agency and a parent, if the party initiating the hearing so chooses, may meet informally to resolve an issue or issues relating to the identification, assessment, or education and placement of the child, or the provision of a free appropriate public education to the child, to the satisfaction of both parties prior to the hearing. The informal meeting shall be conducted by the district superintendent, county superintendent, or director of the public agency or his or her designee. A designee appointed pursuant to this subdivision shall have the authority to resolve the issue or issues.

(h) Upon receipt by the Superintendent of a written request by the parent or public agency, the Superintendent or his or her designee or designees immediately shall notify, in writing, all parties of the request for the hearing and the scheduled date for the hearing. The notice shall advise all parties of all their rights relating to procedural safeguards. The Superintendent or his or her designee shall provide both parties with a list of persons, including *certified* special education advocates, and organizations within the geographical area that can provide free or reduced cost representation or other assistance in preparing for the due process hearing. This list shall include a brief description of the requirement to qualify for the services. The Superintendent or his or her designee shall certify that the listed persons or organizations provide services for free or at a reduced cost, but shall otherwise have complete discretion in determining which individuals or groups shall be included on the list.

(i) In accordance with Section 1415(f)(3)(B) of Title 20 of the United States Code, the party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under this section, unless the other party agrees otherwise.

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

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CURRENT BILL STATUS

MEASURE : S.B. No. 541
AUTHOR(S) : Price.
TOPIC : Regulatory boards: expert consultants.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/21/2011

TYPE OF BILL :
Active
Urgency
Non-Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/28/2011
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR. (Ayes 9. Noes 0.) (June 28). Re-referred to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS
HEARING DATE : 08/17/2011

TITLE : An act to add Section 40 to the Business and Professions Code, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL No. 541

Introduced by Senator Price

February 17, 2011

An act to add Section 40 to the Business and Professions Code, relating to ~~profession~~ *professions* and vocations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. ~~Contractors' State License~~ Regulatory boards: expert consultants.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 40 is added to the Business and
2 Professions Code, to read:
3 40. (a) Subject to the standards described in Section 19130 of
4 the Government Code, any board, as defined in Section 22, the
5 State Board of Chiropractic Examiners, or the Osteopathic Medical
6 Board of California may enter into an agreement with an expert
7 consultant to do any of the following:
8 (1) Provide an expert opinion on enforcement-related matters,
9 including providing testimony at an administrative hearing.
10 (2) Assist the board as a subject matter expert in examination
11 development, examination validation, or occupational analyses.
12 (3) Evaluate the mental or physical health of a licensee or an
13 applicant for a license as may be necessary to protect the public
14 health and safety.
15 (b) An executed contract between a board and an expert
16 consultant shall be exempt from the provisions of Part 2
17 (commencing with Section 10100) of Division 2 of the Public
18 Contract Code.
19 (c) Each board shall establish policies and procedures for the
20 selection and use of expert consultants.
21 *(d) Nothing in this section shall be construed to expand the*
22 *scope of practice of an expert consultant providing services*
23 *pursuant to this section.*
24 SEC. 2. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:
28 To ensure that licensees engaging in certain professions and
29 vocations are adequately regulated at the earliest possible time in
30 order to protect and safeguard consumers and the public in this
31 state, it is necessary that this act take effect immediately.

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CURRENT BILL STATUS

MEASURE : S.B. No. 544
AUTHOR(S) : Price.
TOPIC : Professions and vocations: regulatory boards.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 04/14/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/02/2011
LAST HIST. ACTION : Set, first hearing. Hearing canceled at the request of author.
COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to amend Sections 116, 155, 159.5, 726, 802.1, 803, 803.5, 803.6, 822, 2246, 2960.1, 4982.26, and 4992.33 of, and to add Sections 40, 42, 44, 505, 734, 735, 736, 737, 803.7, 803.8, 857, 1688, 1688.1, 1688.2, 1688.3, 1688.4, 1688.5, 1688.6, 1947.1, 1947.2, 1947.3, 1947.4, 1947.5, 1947.6, 1947.7, 1947.8, 2533.5, 2533.6, 2533.7, 2533.8, 2533.9, 2533.10, 2533.11, 2533.12, 2533.13, 2533.14, 2570.38, 2570.39, 2570.40, 2570.41, 2570.42, 2570.43, 2570.44, 2570.45, 2570.46, 2570.47, 2661.8, 2661.9, 2661.10, 2661.11, 2661.12, 2661.13, 2661.14, 2661.15, 2661.16, 2661.17, 2766, 2766.1, 2766.2, 2766.3, 2766.4, 2766.5, 2766.6, 2766.7, 2766.8, 2879.1, 2879.2, 2879.3, 2879.4, 2879.5, 2879.6, 2879.7, 2879.8, 2879.10, 2969.1, 2969.2, 2969.3, 2969.4, 3112, 3112.1, 3112.2, 3112.3, 3112.4, 3112.5, 3112.6, 3112.7, 3112.8, 3112.9, 3405, 3405.1, 3405.2, 3405.3, 3405.4, 3405.5, 3405.6, 3405.7, 3405.8, 3405.9, 3531.1, 3531.2, 3531.3, 3531.4, 3531.5, 3531.6, 3531.7, 3531.8, 3531.9, 3531.10, 3665, 3665.1, 3665.2, 3665.3, 3665.4, 3665.5, 3665.6, 3665.7, 3665.8, 3665.9, 3769.4, 3769.5, 3769.6, 3769.7, 3769.8, 3769.9, 3769.10, 4316, 4316.1, 4316.2, 4316.3, 4316.4, 4316.5, 4316.6, 4375, 4526, 4526.1, 4526.2, 4526.3, 4526.4, 4526.5, 4526.6, 4526.8, 4526.9, 4888, 4888.1, 4888.2, 4888.3, 4888.4, 4888.5, 4888.6, 4888.7, 4964.1, 4964.2, 4964.3, 4964.4, 4964.55, 4964.6, 4964.7, 4964.8, 4964.9, 4964.10, 4990.44, 4990.45, 4990.46, 4990.47, 4990.48, 4990.49, 4990.50, 4990.51, 4990.52, and 4990.53 to, to add Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2608.5 and 2660.5 of, the Business and Professions Code, and to add section 12529.8 to the Government Code, relating to professions and vocations.

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL **No. 544**

Introduced by Senator Price

February 17, 2011

~~An act to add Section 1623 to the Business and Professions Code, relating to dentistry.~~ *An act to amend Sections 116, 155, 159.5, 726, 802.1, 803, 803.5, 803.6, 822, 2246, 2960.1, 4982.26, and 4992.33 of, and to add Sections 40, 42, 44, 505, 734, 735, 736, 737, 803.7, 803.8, 857, 1688, 1688.1, 1688.2, 1688.3, 1688.4, 1688.5, 1688.6, 1947.1, 1947.2, 1947.3, 1947.4, 1947.5, 1947.6, 1947.7, 1947.8, 2533.5, 2533.6, 2533.7, 2533.8, 2533.9, 2533.10, 2533.11, 2533.12, 2533.13, 2533.14, 2570.38, 2570.39, 2570.40, 2570.41, 2570.42, 2570.43, 2570.44, 2570.45, 2570.46, 2570.47, 2661.8, 2661.9, 2661.10, 2661.11, 2661.12, 2661.13, 2661.14, 2661.15, 2661.16, 2661.17, 2766, 2766.1, 2766.2, 2766.3, 2766.4, 2766.5, 2766.6, 2766.7, 2766.8, 2879.1, 2879.2, 2879.3, 2879.4, 2879.5, 2879.6, 2879.7, 2879.8, 2879.10, 2969.1, 2969.2, 2969.3, 2969.4, 3112, 3112.1, 3112.2, 3112.3, 3112.4, 3112.5, 3112.6, 3112.7, 3112.8, 3112.9, 3405, 3405.1, 3405.2, 3405.3, 3405.4, 3405.5, 3405.6, 3405.7, 3405.8, 3405.9, 3531.1, 3531.2, 3531.3, 3531.4, 3531.5, 3531.6, 3531.7, 3531.8, 3531.9, 3531.10, 3665, 3665.1, 3665.2, 3665.3, 3665.4, 3665.5, 3665.6, 3665.7, 3665.8, 3665.9, 3769.4, 3769.5, 3769.6, 3769.7, 3769.8, 3769.9, 3769.10, 4316, 4316.1, 4316.2, 4316.3, 4316.4, 4316.5, 4316.6, 4375, 4526, 4526.1, 4526.2, 4526.3, 4526.4, 4526.5, 4526.6, 4526.8, 4526.9, 4888, 4888.1, 4888.2, 4888.3, 4888.4, 4888.5, 4888.6, 4888.7, 4964.1, 4964.2, 4964.3, 4964.4, 4964.55, 4964.6, 4964.7, 4964.8, 4964.9, 4964.10, 4990.44, 4990.45, 4990.46, 4990.47, 4990.48, 4990.49, 4990.50, 4990.51, 4990.52, and 4990.53 to, to add Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2608.5 and 2660.5 of, the Business and*

Professions Code, and to add section 12529.8 to the Government Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Price. ~~Dental Board of California: collection of fees, fines, and cost recovery.~~ *Professions and vocations: regulatory boards.*

(1) Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and nonhealing arts boards. The department is under the control of the Director of Consumer Affairs.

This bill would require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

The bill would prohibit a licensee regulated by a board within the department from including certain provisions in an agreement to settle a civil litigation action arising from his or her practice, as specified.

(2) Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.

Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Department of Justice. The bill would also establish within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

The bill would require all healing arts boards within the department to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of complaints closed or resolved without discipline, the total number of complaints and reports referred for formal investigation, and the total number of accusations filed and the final disposition of accusations through the board and court review, respectively.

The bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.

This bill would expand that requirement to a licensee of any healing arts board, as specified, and would further require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state or an agency of the federal government.

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licentiate has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licensee.

(c) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

(d) If a board complies with Section 2220.7, that board shall not be subject to the requirements of this section.

SEC. 6. Section 116 of the Business and Professions Code is amended to read:

116. (a) The director *or his or her designee* may audit and review, upon his or her own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by ~~the Medical Board of California, the allied health professional boards, and the California Board of Podiatric Medicine~~ *any of the healing arts boards described in Division 2 (commencing with Section 500)*. The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both, *for their consideration*.

(b) The director shall report to the Chairpersons of the Senate *Committee on* Business ~~and~~, Professions ~~Committee~~ *and Economic Development* and the Assembly *Committee on* Health ~~Committee~~ annually~~, commencing March 1, 1995,~~ regarding his or her findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

SEC. 7. Section 155 of the Business and Professions Code is amended to read:

155. (a) In accordance with Section 159.5, the director may employ such investigators, inspectors, and deputies as are necessary *to* properly ~~to~~ investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board, agency, or commission in the department.

(b) It is the intent of the Legislature that inspectors used by boards, bureaus, or commissions in the department shall not be required to be employees of the Division of Investigation, but may either be employees of, or under contract to, the boards, bureaus, or commissions. Contracts for services shall be consistent with Article 4.5 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code. All civil service employees currently employed as inspectors whose functions are transferred as a result of this section shall retain their positions, status, and rights in accordance with Section 19994.10 of the

Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) Investigators used by any healing arts board, as described in Division 2 (commencing with Section 500), shall not be required to be employees of the Division of Investigation and a healing arts board may contract for investigative services provided by the Department of Justice.

~~(c)~~

(d) Nothing in this section limits the authority of, or prohibits, investigators in the Division of Investigation in the conduct of inspections or investigations of any licensee, or in the conduct of investigations of any officer or employee of a board or the department at the specific request of the director or his or her designee.

SEC. 8. Section 159.5 of the Business and Professions Code is amended to read:

159.5. There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division. *There is in the division the Health Quality Enforcement Unit. The primary responsibility of the unit is to investigate complaints against licensees and applicants within the jurisdiction of the healing arts boards described in Section 720.*

Except as provided in Section ~~160, investigators who have the authority of peace officers,~~ *16 of Chapter 1394 of the Statutes of 1970, all positions for the personnel necessary to provide investigative services,* as specified in ~~subdivision (a) of Section 160~~ *Section 160 of this code* and in subdivision ~~(a)~~ *(b)* of Section 830.3 of the Penal Code, shall be in the division and *the personnel* shall be appointed by the director.

SEC. 9. Section 505 is added to the Business and Professions Code, to read:

505. (a) Each healing arts board shall report annually to the department and the Legislature, not later than October 1 of each year, the following information:

(1) The total number of complaints closed or resolved without discipline, prior to accusation.

(2) The total number of complaints and reports referred for formal investigation.

(3) The total number of accusations filed and the final disposition of accusations through the board and court review, respectively.

(4) The total number of citations issued, with fines and without fines, and the number of public letters of reprimand, letters of admonishment, or other similar action issued, if applicable.

(5) The total number of final licensee disciplinary actions taken, by category.

(6) The total number of cases in process for more than six months, more than 12 months, more than 18 months, and more than 24 months, from receipt of a complaint by the board.

(7) The average time in processing complaints, from original receipt of the complaint by the board, for all cases, at each stage of the disciplinary process and court review, respectively.

(8) The total number of licensees in diversion or on probation for alcohol or drug abuse, and the number of licensees successfully completing diversion programs or probation, and failing to do so, respectively.

(9) The total number of probation violation reports and probation revocation filings, and their dispositions.

(10) The total number of petitions for reinstatement, and their dispositions.

(b) "Action," for purposes of this section, includes proceedings brought by, or on behalf of, the healing arts board against licensees for unprofessional conduct that have not been finally adjudicated, as well as disciplinary actions taken against licensees.

(c) A board that complies with Section 2313 shall not be subject to the requirements of this section.

(d) A report to be submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(e) This section shall become inoperative on October 1, 2016.

SEC. 10. Section 726 of the Business and Professions Code is amended to read:

726. *(a)* The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division~~,~~ *and* under any initiative act referred to in this division~~ and under Chapter 17 (commencing with Section 9000) of Division 3~~.

(b) For purposes of Division 1.5 (commencing with Section 475), the commission of, and conviction for, any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration pursuant to Section 290 of the Penal Code, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee of a healing arts board described in this division.

~~This~~

(c) This section shall not apply to sexual contact between a ~~physician and surgeon~~ *licensee* and his or her spouse or person in an equivalent domestic relationship when that ~~physician and surgeon~~ *licensee* provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

SEC. 11. Section 734 is added to the Business and Professions Code, to read:

734. (a) The conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct. The record of the conviction is conclusive evidence of the unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered against a licensee in accordance with the laws and regulations of the healing arts board or the board may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 12. Section 735 is added to the Business and Professions Code, to read:

735. A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

SEC. 13. Section 736 is added to the Business and Professions Code, to read:

736. (a) The use or prescribing for or administering to himself or herself of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that the use impairs the ability of the licensee to practice safely; or conviction of any misdemeanor or felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or conviction of any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of the unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. Discipline may be ordered against a licensee in accordance with the laws and regulations of the healing arts board or the board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(c) A violation of subdivision (a) is a misdemeanor, and upon conviction shall be punished by a fine of up to ten thousand dollars ($10,000), or by imprisonment in the county jail of up to six months, or by both that fine and imprisonment.

SEC. 14. Section 737 is added to the Business and Professions Code, to read:

737. It shall be unprofessional conduct for any licensee of a healing arts board to fail to comply with the following:

(a) Furnish information in a timely manner to the healing arts board or the board's investigators or representatives if requested by the board.

(b) Cooperate and participate in any investigation or other regulatory or disciplinary proceeding pending against the licensee. However, this subdivision shall not be construed to deprive a

licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require a licensee to cooperate with a request that requires him or her to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

SEC. 15. Section 802.1 of the Business and Professions Code is amended to read:

802.1. (a) (1) A ~~physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine shall report either~~ *licensee of a healing arts board described in this division shall report any* of the following to the entity that issued his or her license:

(A) The bringing of an indictment or information charging a felony against the licensee.

(B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(C) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government.

(2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or ~~information or of the conviction~~ *the charging of a felony, or of the arrest, conviction, or disciplinary action.*

(b) Failure to make a report required by this section shall be a public offense punishable by a fine not to exceed five thousand dollars ($5,000) *and shall constitute unprofessional conduct.*

SEC. 16. Section 803 of the Business and Professions Code is amended to read:

803. (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from ~~the Board of Behavioral Sciences or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200))~~ *a healing arts board described*

in this division, has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars ($30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, or doctor of podiatric medicine, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the ~~agency~~ *board* that issued the license.

SEC. 17. Section 803.5 of the Business and Professions Code is amended to read:

803.5. (a) The district attorney, city attorney, or other prosecuting agency shall notify the ~~Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, or other appropriate allied health board,~~ *appropriate healing arts board described in this division* and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

SEC. 18. Section 803.6 of the Business and Professions Code is amended to read:

803.6. (a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the ~~Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, or other~~

1 ~~appropriate allied health board, as applicable,~~ *appropriate healing*
2 *arts board described in this division* where the total length of the
3 transcript is under 800 pages and shall notify the appropriate board
4 of any proceeding where the transcript exceeds that length.
5 (b) In any case where a probation report on a licensee is prepared
6 for a court pursuant to Section 1203 of the Penal Code, a copy of
7 that report shall be transmitted by the probation officer to the
8 *appropriate healing arts* board.
9 *SEC. 19. Section 803.7 is added to the Business and Professions*
10 *Code, to read:*
11 *803.7. The Department of Justice shall ensure that subsequent*
12 *reports and subsequent disposition information authorized to be*
13 *issued to any board identified in Section 101 are submitted to that*
14 *board within 30 days from notification of subsequent arrests,*
15 *convictions, or other updates.*
16 *SEC. 20. Section 803.8 is added to the Business and Professions*
17 *Code, to read:*
18 *803.8. (a) The office of the Attorney General shall serve, or*
19 *submit to a healing arts board for service, an accusation within*
20 *60 calendar days of receipt from the healing arts board.*
21 *(b) The office of the Attorney General shall serve, or submit to*
22 *a healing arts board for service, a default decision within five days*
23 *following the time period allowed for the filing of a notice of*
24 *defense.*
25 *(c) The office of the Attorney General shall set a hearing date*
26 *within three days of receiving a notice of defense, unless the*
27 *healing arts board gives the office of the Attorney General*
28 *instruction otherwise.*
29 *SEC. 21. Section 822 of the Business and Professions Code is*
30 *amended to read:*
31 822. If a licensing agency determines that its licentiate's ability
32 to practice his or her profession safely is impaired because the
33 licentiate is mentally ill, or physically ill affecting competency,
34 the licensing agency may take action by any one of the following
35 methods:
36 (a) Revoking the licentiate's certificate or license.
37 (b) Suspending the licentiate's right to practice.
38 (c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper, *including issuing a limited or restricted license.*

The licensing agency shall not reinstate a revoked or suspended certificate or license *or lift any restrictions or limitations* until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

SEC. 22. Section 857 is added to the Business and Professions Code, to read:

857. (a) Each healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California shall query the federal National Practitioner Data Bank prior to any of the following:

(1) Granting a license to an applicant who is currently residing in another state.

(2) Granting a license to an applicant who is currently or has ever been licensed as a health care practitioner in California or another state.

(3) Granting a petition for reinstatement of a revoked or surrendered license.

(b) Notwithstanding subdivision (a), a healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California may query the federal National Practitioner Data Bank prior to issuing any license.

(c) A healing arts board shall charge a fee to cover the actual cost to conduct the queries described in this section.

SEC. 23. Article 16 (commencing with Section 880) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 16. Unlicensed Practice

880. (a) (1) It is a public offense, punishable by a fine not to exceed one hundred thousand dollars ($100,000), by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment, for:

(A) Any person who does not hold a current and valid license to practice a healing art under this division to engage in that practice.

(B) Any person who fraudulently buys, sells, or obtains a license to practice any healing art in this division or to violate any provision of this division.

(2) Subparagraph (A) of paragraph (1) shall not apply to any person who is already being charged with a crime under the specific healing arts licensing provisions for which he or she engaged in unauthorized practice.

(b) Notwithstanding any other provision of law, any person who is licensed under this division, and who supervises the practice of a healing art by any person who does not hold a current and valid license to practice that healing art under this division, is guilty of a public crime, punishable by a fine not to exceed one hundred thousand dollars ($100,000), by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

SEC. 24. Section 1688 is added to the Business and Professions Code, to read:

1688. (a) The board may delegate to its executive officer the authority to adopt a proposed default decision where an administrative action to revoke a license has been filed and the licensee has failed to file a notice of defense or to appear at the hearing and a proposed default decision revoking the license has been issued.

(b) The board may delegate to its executive officer the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed by the board and the licensee has agreed to the revocation or surrender of his or her license.

(c) The executive officer shall, at scheduled board meetings, report to the board the number of proposed default decisions or proposed settlement agreements adopted pursuant to this section.

SEC. 25. Section 1688.1 is added to the Business and Professions Code, to read:

1688.1. (a) Notwithstanding Section 11415.60 of the Government Code, the board may enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against that licensee or applicant, as applicable.

(f) This section shall not apply to a licensee whose license has been surrendered, whose only discipline is a medical staff disciplinary action at a federal hospital and not for medical disciplinary cause or reason as that term is defined in Section 805, or whose revocation or suspension has been stayed, even if the licensee remains subject to terms of probation or other discipline.

(g) This section shall not apply to a suspension or revocation imposed by a state that is based solely on the prior discipline of the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

(i) A board that complies with Section 2310 shall not be subject to the requirements of this section.

SEC. 50. Section 2570.38 is added to the Business and Professions Code, to read:

2570.38. (a) The board may delegate to its executive officer the authority to adopt a proposed default decision where an administrative action to revoke a license has been filed and the licensee has failed to file a notice of defense or to appear at the hearing and a proposed default decision revoking the license has been issued.

(b) The board may delegate to its executive officer the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed by the board and the licensee has agreed to the revocation or surrender of his or her license.

(c) The executive officer shall, at scheduled board meetings, report to the board the number of proposed default decisions or proposed settlement agreements adopted pursuant to this section.

SEC. 51. Section 2570.39 is added to the Business and Professions Code, to read:

2570.39. (a) Notwithstanding Section 11415.60 of the Government Code, the board may enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against that licensee or applicant, as applicable.

(b) The settlement shall include language identifying the factual basis for the action being taken and a list of the statutes or regulations violated.

(c) A person who enters a settlement pursuant to this section is not precluded from filing a petition, in the timeframe permitted by law, to modify the terms of the settlement or petition for early termination of probation, if probation is part of the settlement.

(d) Any settlement against a licensee executed pursuant to this section shall be considered discipline and a public record and shall be posted on the applicable board's Internet Web site. Any settlement against an applicant executed pursuant to this section shall be considered a public record and shall be posted on the applicable board's Internet Web site.

(e) The executive officer shall, at scheduled board meetings, report to the board the number of proposed settlement agreements adopted pursuant to this section.

SEC. 52. Section 2570.40 is added to the Business and Professions Code, to read:

2570.40. (a) The license of a licensee shall be suspended automatically during any time that the licensee is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the licensee has been automatically suspended by virtue of his or her incarceration, and if so, the duration of that suspension. The board shall notify the licensee in writing of the license suspension and of his or her right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee was convicted was substantially related to the qualifications, functions, or duties of a licensee, the board shall suspend the license until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state, regulating dangerous drugs or controlled

substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the board.

(d) (1) Discipline may be ordered against a licensee in accordance with the statutes and regulations of the board when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

SEC. 53. Section 2570.41 is added to the Business and Professions Code, to read:

2570.41. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term sex offense shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

SEC. 54. Section 2570.42 is added to the Business and Professions Code, to read:

2570.42. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the individual is licensed under this chapter, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government

Code. The board shall not stay the revocation and place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

SEC. 55. Section 2570.43 is added to the Business and Professions Code, to read:

2570.43. (a) Notwithstanding any other provision of law making a communication between a licensee and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted by the board. Members of the board, deputies, employees, agents, the office of the Attorney General, and representatives of the board shall keep in confidence during the course of investigations the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority under this subdivision to examine records of patients in the office of a licensee

is limited to records of patients who have complained to the board about that licensee.

(b) Notwithstanding any other provision of law, the Attorney General and his or her investigative agents, and the board and its investigators and representatives may inquire into any alleged violation of the laws under the jurisdiction of the board or any other federal or state law, regulation, or rule relevant to the practice regulated by the board, whichever is applicable, and may inspect documents relevant to those investigations in accordance with the following procedures:

(1) Any document relevant to an investigation may be inspected, and copies may be obtained, where a patient provides written authorization.

(2) Any document relevant to the business operations of a licensee, and not involving medical records attributable to identifiable patients, may be inspected and copied where relevant to an investigation of a licensee.

(c) In all cases where documents are inspected or copies of those documents are received, their acquisition or review shall be arranged so as not to unnecessarily disrupt the medical and business operations of the licensee or of the facility where the records are kept or used.

(d) Where certified documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of any board, the documents shall be provided within 10 business days of receipt of the request, unless the licensee is unable to provide the certified documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested certified documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. A board may use its authority to cite and fine a licensee for any violation of this section. This remedy is in addition to any other authority of the healing arts board to sanction a licensee for a delay in producing requested records.

(e) Searches conducted of the office or medical facility of any licensee shall not interfere with the recordkeeping format or preservation needs of any licensee necessary for the lawful care of patients.

(f) The licensee shall cooperate with the board in furnishing information or assistance as may be required, including, but not limited to, participation in an interview with investigators or representatives of the healing arts board.

(g) This section shall not apply to a licensee who does not have access to, and control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.

SEC. 56. Section 2570.44 is added to the Business and Professions Code, to read:

2570.44. (a) (1) Notwithstanding any other provision of law, a licensee who fails or refuses to comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to a board together with a notice citing this section and describing the penalties for failure to comply with this section shall be required to pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to a board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars ($10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records, but shall not be required to make that payment prior to the production of the medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the

release of records to the board, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, up to ten thousand dollars ($10,000), unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to a board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars ($1,000) per day for each day that the documents have not been produced, up to ten thousand dollars ($10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars ($5,000). Any statute of limitations applicable to the filing of an accusation by the healing arts board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars ($5,000), shall be reported to the State Department of Public Health, and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the healing arts board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Any civil penalties paid to, or received by, the board pursuant to this section shall be deposited into the fund administered by the board.

(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the licensee's board.

(g) For purposes of this section, a "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(h) If a board complies with Section 1684.1, 2225.5, or 2969, that board shall not be subject to the requirements of this section.

(i) This section shall not apply to a licensee who does not have access to, or control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.

SEC. 57. Section 2570.45 is added to the Business and Professions Code, to read:

2570.45. (a) Notwithstanding any other provision of law, any employer of a licensee shall report to the board the suspension or termination for cause, or any resignation in lieu of suspension or

termination for cause, of any licensee in its employ within 15 business days. The report shall not be made until after the conclusion of the review process specified in Section 52.3 of Title 2 of the California Code of Regulations and Skelly v. State Personnel Bd. (1975) 15 Cal.3d 194, for public employees. This required reporting shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and shall not be subject to discovery in civil cases.

(b) The information to be reported by the employer shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the suspension or termination for cause, any resignation in lieu of suspension or termination for cause, and any other relevant information deemed appropriate by the employer.

(c) The board shall be entitled to inspect and copy the following documents in the record for any suspension or termination for cause, or any resignation in lieu of suspension or termination for cause, resulting in action that is required to be reported pursuant to this section:

(1) Any statement for suspension or termination of the licensee.

(2) Any document or exhibits relevant to the suspension or termination.

(d) If, during the investigation by the board of the cause for the termination or suspension or resignation of the licensee, it is found that there has been a violation of existing state or federal law, the board shall report the violation to the appropriate agency.

(e) For purposes of this section, "suspension or termination for cause" or "resignation in lieu of suspension or termination for cause" is defined as resignation, suspension, or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to the extent that it impairs the licensee's ability to safely practice.

(2) Unlawful sale of a controlled substance or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Gross negligence or incompetence.

(5) Theft from a patient or client, any other employee, or the employer.

(f) As used in this section, the following definitions apply:

(1) "Gross negligence" means a substantial departure from the standard of care, which, under similar circumstances, would have ordinarily been exercised by a competent licensee, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the standard of care.

(2) "Incompetence" means the lack of possession of, and the failure to exercise that degree of learning, skill, care, and experience ordinarily possessed by, a responsible licensee.

(3) "Willful" means a knowing and intentional violation of a known legal duty.

(g) (1) Willful failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed one hundred thousand dollars ($100,000) per violation.

(2) Any failure of an employer, other than willful failure, to make a report required by this section is punishable by an administrative fine not to exceed fifty thousand dollars ($50,000).

(h) The board shall investigate the circumstances underlying any report received pursuant to this section within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to this section.

(i) The board shall send to the licentiate a copy of the report along with the reasons for the filing of the report and notice advising the licentiate of his or her right to submit additional statements or other information to the board.

(j) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this article.

(k) No report is required under this section where a report of the action taken is already required under Section 805.

SEC. 58. Section 2570.46 is added to the Business and Professions Code, to read:

2570.46. Unless otherwise provided, on or after July 1, 2013, the board shall post on its Internet Web site the following information, including the name and license number, in its

possession, custody, or control regarding every licensee for which the board licenses:

(a) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(b) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(c) Any felony conviction of a licensee reported to the board.

(d) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

(e) Any malpractice judgment or arbitration award imposed against a licensee and reported to the healing arts board.

(f) Any hospital disciplinary action imposed against a licensee that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason pursuant to Section 2570.44 or 805.

(g) Any misdemeanor conviction of a licensee that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

(h) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.

(i) The information provided on the Internet shall be in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall comply with the

Department of Consumer Affairs Guidelines for Access to Public Records.

(j) Information provided on the Internet may not include personal information, unless otherwise provided pursuant to this chapter, including the home telephone number, date of birth, or social security number. The information may not include the licensee's address, but may include the city and county of the licensee's address of record.

SEC. 59. Section 2570.47 is added to the Business and Professions Code, to read:

2570.47. (a) Unless otherwise provided, if a licensee possesses a license or is otherwise authorized to practice in any state other than California or by any agency of the federal government and that license or authority is suspended or revoked outright, the California license of the licensee shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The board shall notify the licensee of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

(b) Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the specific healing art.

(c) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. A licensee may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the request. If the order suspending or revoking the license or authority to practice is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon a showing to the administrative law judge or panel by the licensee that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded. If an accusation for permanent discipline is not filed within 90 days of the suspension imposed pursuant to this section, the suspension shall automatically terminate.

(d) The record of the proceedings that resulted in the suspension or revocation of the licensee's out-of-state license or authority to

practice, including a transcript of the testimony therein, may be received in evidence.

(e) This section shall not apply to a licensee who maintains his or her primary practice in California, as evidenced by having maintained a practice in this state for not less than one year immediately preceding the date of suspension or revocation. Nothing in this section shall preclude a licensee's license from being suspended pursuant to any other provision of law.

(f) This section shall not apply to a licensee whose license has been surrendered, whose only discipline is a medical staff disciplinary action at a federal hospital and not for medical disciplinary cause or reason as that term is defined in Section 805, or whose revocation or suspension has been stayed, even if the licensee remains subject to terms of probation or other discipline.

(g) This section shall not apply to a suspension or revocation imposed by a state that is based solely on the prior discipline of the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

(i) A board that complies with Section 2310 shall not be subject to the requirements of this section.

SEC. 60. Section 2608.5 of the Business and Professions Code is repealed.

~~2608.5. Each member of the board, or any licensed physical therapist appointed by the board, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the board to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.~~

CURRENT BILL STATUS

MEASURE : S.B. No. 924
AUTHOR(S) : Walters (Coauthors: Senators Emmerson, Runner, and Strickland) (Coauthors: Assembly Members Bill Berryhill, Chesbro, Knight, Morrell, Norby, and Silva).
TOPIC : Physical therapists: direct access to services.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/24/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/24/2011
LAST HIST. ACTION : From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.
COMM. LOCATION : SEN APPROPRIATIONS

TITLE : An act to amend Section 2660 of, and to add Section 2620.1 to, the Business and Professions Code, relating to physical therapists.

AMENDED IN SENATE MAY 24, 2011

AMENDED IN SENATE MAY 9, 2011

AMENDED IN SENATE MARCH 30, 2011

SENATE BILL No. 924

Introduced by Senator Walters
(Coauthors: Senators Emmerson, Runner, and Strickland)
(Coauthors: Assembly Members Bill Berryhill, Chesbro, ~~Galgiani,~~ Knight, Morrell, Norby, and Silva)

February 18, 2011

An act to amend Section 2660 of, and to add Section 2620.1 to, the Business and Professions Code, relating to physical therapists.

LEGISLATIVE COUNSEL'S DIGEST

SB 924, as amended, Walters. Physical therapists: direct access to services.

Existing law, the Physical Therapy Practice Act, creates the Physical Therapy Board of California and makes it responsible for the licensure and regulation of physical therapists. The act defines the term "physical therapy" for its purposes and makes it a crime to violate any of its provisions. The act authorizes the board to suspend, revoke, or impose probationary conditions on a license, certificate, or approval issued under the act for unprofessional conduct, as specified.

This bill would specify that patients may access physical therapy treatment directly, and would, in those circumstances, require a physical therapist to refer his or her patient to another specified healing arts practitioner if the physical therapist has reason to believe the patient has a condition requiring treatment or services beyond that scope of practice, to disclose to the patient any financial interest he or she has

in treating the patient, and, with the patient's written authorization, to notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient. The bill would prohibit a physical therapist from treating a patient beyond a 30-day period, unless the patient has obtained a diagnosis from a physician and surgeon. The bill would provide that failure to comply with these provisions constitutes unprofessional conduct subject to disciplinary action by the board.

Because the bill would specify additional requirements under the Physical Therapy Practice Act, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that an
2 individual's access to early intervention to physical therapy
3 treatment may decrease the duration of a disability, reduce pain,
4 and lead to a quicker recovery.
5 SEC. 2. Section 2620.1 is added to the Business and Professions
6 Code, to read:
7 2620.1. (a) In addition to receiving wellness and evaluation
8 services from a physical therapist, a person may initiate physical
9 therapy treatment directly from a licensed physical therapist
10 provided that the treatment is within the scope of practice of
11 physical therapists, as defined in Section 2620, and that all the
12 following conditions are met:
13 (1) If, at any time, the physical therapist has reason to believe
14 that the patient has signs or symptoms of a condition that requires
15 treatment beyond the scope of practice of a physical therapist, the
16 physical therapist shall refer the patient to a person holding a
17 physician and surgeon's certificate issued by the Medical Board
18 of California or by the Osteopathic Medical Board of California
19 or to a person licensed to practice dentistry, podiatric medicine,
20 or chiropractic.

(2) The physical therapist shall disclose to the patient any financial interest he or she has in treating the patient and shall comply with Article 6 (commencing with Section 650) of Chapter 1 of Division 2.

(3) With the patient's written authorization, the physical therapist shall notify the patient's physician and surgeon, if any, that the physical therapist is treating the patient.

(b) The conditions in paragraphs (1), (2), and (3) of subdivision (a) do not apply to a physical therapist when providing evaluation or wellness physical therapy services to a patient as described in subdivision (a) of Section 2620.

(c) Nothing in this section shall be construed to expand or modify the scope of practice for physical therapists set forth in Section 2620, including the prohibition on a physical therapist diagnosing a disease.

(d) Nothing in this section shall be construed to require a health care service plan ~~or insurer~~, *insurer, or any other person or entity, including, but not limited to, a state program or state employer,* to provide coverage for direct access to treatment by a physical therapist.

(e) A physical therapist shall not continue treating a patient beyond a 30-day period, unless the patient has obtained a diagnosis by a physician and surgeon.

SEC. 3. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Advertising in violation of Section 17500.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

(e) Habitual intemperance.

(f) Addiction to the excessive use of any habit-forming drug.

(g) Gross negligence in his or her practice as a physical therapist or physical therapist assistant.

(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

(i) The aiding or abetting of any person to violate this chapter or any regulations duly adopted under this chapter.

(j) The aiding or abetting of any person to engage in the unlawful practice of physical therapy.

(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

(*l*) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians of the State of California, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(m) The commission of verbal abuse or sexual harassment.

(n) Failure to comply with the provisions of Section 2620.1.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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CURRENT BILL STATUS

MEASURE : S.B. No. 24
AUTHOR(S) : Simitian (Coauthor: Senator Fuller) (Coauthor: Assembly Member Wieckowski).
TOPIC : Personal information: privacy.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/20/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/07/2011
LAST HIST. ACTION : Read second time. Ordered to third reading.
FILE : ASM THIRD READING
FILE DATE : 07/14/2011
ITEM : 83

COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 07/06/2011
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 12 Noes: 04 PASS

TITLE : An act to amend Sections 1798.29 and 1798.82 of the Civil Code, relating to personal information.

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL No. 24

Introduced by Senator Simitian
(Coauthor: Senator Fuller)
(Coauthor: Assembly Member Wieckowski)

December 6, 2010

An act to amend Sections 1798.29 and 1798.82 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 24, as amended, Simitian. Personal information: privacy.

Existing law requires any agency, and any person or business conducting business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the system or data, as defined, following discovery or notification of the security breach, to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

This bill would require any agency, person, or business that is required to issue a security breach notification pursuant to existing law to fulfill certain additional requirements pertaining to the security breach notification, as specified.

The bill would also require any agency, person, or business that is required to issue a security breach notification to more than 500 California residents pursuant to existing law to electronically submit a single sample copy of that security breach notification to the Attorney General, as specified.

This bill would provide that a covered entity under the federal Health Insurance Portability and Accountability Act of 1996 is deemed to have complied with these provisions, if it has complied with existing federal law, as specified.

The bill would also incorporate additional changes made by the Governor's Reorganization Plan No. 1 of 2009.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.29 of the Civil Code is amended
2 to read:
3 1798.29. (a) Any agency that owns or licenses computerized
4 data that includes personal information shall disclose any breach
5 of the security of the system following discovery or notification
6 of the breach in the security of the data to any resident of California
7 whose unencrypted personal information was, or is reasonably
8 believed to have been, acquired by an unauthorized person. The
9 disclosure shall be made in the most expedient time possible and
10 without unreasonable delay, consistent with the legitimate needs
11 of law enforcement, as provided in subdivision (c), or any measures
12 necessary to determine the scope of the breach and restore the
13 reasonable integrity of the data system.
14 (b) Any agency that maintains computerized data that includes
15 personal information that the agency does not own shall notify the
16 owner or licensee of the information of any breach of the security
17 of the data immediately following discovery, if the personal
18 information was, or is reasonably believed to have been, acquired
19 by an unauthorized person.
20 (c) The notification required by this section may be delayed if
21 a law enforcement agency determines that the notification will
22 impede a criminal investigation. The notification required by this
23 section shall be made after the law enforcement agency determines
24 that it will not compromise the investigation.
25 (d) Any agency that is required to issue a security breach
26 notification pursuant to this section shall meet all of the following
27 requirements:
28 (1) The security breach notification shall be written in plain
29 language.

(2) The security breach notification shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the agency, the security breach notification may also include any of the following:

(A) Information about what the agency has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within subdivision (f) of Section 6254 of the Government Code.

(f) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for

the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(g) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.

(2) Driver's license number or California Identification Card number.

(3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(4) Medical information.

(5) Health insurance information.

(h) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(i) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) E-mail notice when the agency has an e-mail address for the subject persons.

(B) Conspicuous posting of the notice on the agency's Internet Web site page, if the agency maintains one.

(C) Notification to major statewide media and the Office of Information Security within the ~~office of the State Chief Information Officer~~ *California Technology Agency*.

(j) Notwithstanding subdivision (i), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

SEC. 2. Section 1798.82 of the Civil Code is amended to read:

1798.82. (a) Any person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) Any person or business that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language.

(2) The security breach notification shall include, at a minimum, the following information:

(A) The name and contact information of the reporting person or business subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the person or business, the security breach notification may also include any of the following:

(A) Information about what the person or business has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5). However, nothing in this subdivision shall be construed to exempt a covered entity from any other provision of this section.

(f) Any person or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within subdivision (f) of Section 6254 of the Government Code.

(g) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(h) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(1) Social security number.

(2) Driver's license number or California Identification Card number.

(3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(4) Medical information.

(5) Health insurance information.

(i) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer

to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(j) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars ($250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) E-mail notice when the person or business has an e-mail address for the subject persons.

(B) Conspicuous posting of the notice on the Internet Web site page of the person or business, if the person or business maintains one.

(C) Notification to major statewide media and the Office of Privacy Protection within the State and Consumer Services Agency.

(k) Notwithstanding subdivision (j), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

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CURRENT BILL STATUS

MEASURE : S.B. No. 850
AUTHOR(S) : Leno.
TOPIC : Medical records: confidential information.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 06/22/2011

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/28/2011
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 2.) (June 27). Re-referred to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS
HEARING DATE : 08/17/2011

TITLE : An act to amend Section 56.101 of the Civil Code, relating to medical records.

AMENDED IN ASSEMBLY JUNE 22, 2011

AMENDED IN SENATE MAY 2, 2011

SENATE BILL No. 850

Introduced by Senator Leno

February 18, 2011

An act to amend Section 56.101 of the Civil Code, relating to medical records.

LEGISLATIVE COUNSEL'S DIGEST

SB 850, as amended, Leno. Medical records: confidential information.

The Confidentiality of Medical Information Act requires that every provider of health care, health care service plan, pharmaceutical company, and contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical records do so in a manner that preserves the confidentiality of the information contained in the record, and provides that negligence in conducting these activities may result in damages or an administrative fine or civil penalty, as specified.

This bill would require an electronic health or medical record system to automatically record *and preserve* any change or deletion of electronically stored medical information, and would require the record to include, among other things, the identity of the person who accessed and changed the medical information and the change that was made to the medical information.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 56.101 of the Civil Code is amended to
2 read:
3 56.101. (a) Every provider of health care, health care service
4 plan, pharmaceutical company, or contractor who creates,
5 maintains, preserves, stores, abandons, destroys, or disposes of
6 medical information shall do so in a manner that preserves the
7 confidentiality of the information contained therein. Any provider
8 of health care, health care service plan, pharmaceutical company,
9 or contractor who negligently creates, maintains, preserves, stores,
10 abandons, destroys, or disposes of medical information shall be
11 subject to the remedies and penalties provided under subdivisions
12 (b) and (c) of Section 56.36.
13 (b) *(1)* An electronic health record system or electronic medical
14 record system shall ~~automatically record~~ *do the following:*
15 *(A) Protect and preserve the integrity of electronic medical*
16 *information.*
17 *(B) Automatically record and preserve* any change or deletion
18 of any electronically stored medical information. The record of
19 any change or deletion shall include the identity of the person who
20 accessed and changed the medical information, the date and time
21 the medical information was accessed, and the change that was
22 made to the medical information. ~~The record of the change or~~
23 ~~deletion shall be made part of the patient's medical information,~~
24 ~~and shall be accessible upon request of a patient or his or her~~
25 ~~representative to review the medical information.~~
26 *(2) A patient's right to access or receive a copy of his or her*
27 *electronic medical records upon request shall be consistent with*
28 *current applicable state and federal laws governing patient access*
29 *to, and the use and disclosures of, medical information.*

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CURRENT BILL STATUS

MEASURE : A.B. No. 439
AUTHOR(S) : Skinner.
TOPIC : Health care information.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 06/28/2011

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/05/2011
LAST HIST. ACTION : In committee: Set, first hearing. Hearing canceled at the request of author.
COMM. LOCATION : SEN JUDICIARY

TITLE : An act to amend Section 56.36 of the Civil Code, relating to health care information.

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 18, 2011

AMENDED IN ASSEMBLY APRIL 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 439

Introduced by Assembly Member Skinner

February 14, 2011

An act to amend Section 56.36 of the Civil Code, relating to health care information.

LEGISLATIVE COUNSEL'S DIGEST

AB 439, as amended, Skinner. Health care information.

Existing law, the Confidentiality of Medical Information Act (CMIA), prohibits a health care provider, a contractor, or a health care service plan from disclosing medical information, as defined, regarding a patient of the provider or an enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. In addition to other remedies available, existing law authorizes an individual to bring an action against any person or entity who has negligently released his or her confidential records in violation of those provisions for nominal damages of $1,000.

This bill would specify that, in an action brought on or after January 1, 2012, a court may not award nominal damages if the defendant establishes specified factors as an affirmative defense, including, but not limited to, that it is a covered entity, as defined, and has complied with any obligations to notify persons entitled to receive notice regarding the release of the information. The bill would also make a technical, nonsubstantive change.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 56.36 of the Civil Code is amended to
2 read:
3 56.36. (a) Any violation of the provisions of this part that
4 results in economic loss or personal injury to a patient is punishable
5 as a misdemeanor.
6 (b) In addition to any other remedies available at law, any
7 individual may bring an action against any person or entity who
8 has negligently released confidential information or records
9 concerning him or her in violation of this part, for either or both
10 of the following:
11 (1) Except as provided in subdivision (e), nominal damages of
12 one thousand dollars ($1,000). In order to recover under this
13 paragraph, it shall not be necessary that the plaintiff suffered or
14 was threatened with actual damages.
15 (2) The amount of actual damages, if any, sustained by the
16 patient.
17 (c) (1) In addition, any person or entity that negligently
18 discloses medical information in violation of the provisions of this
19 part shall also be liable, irrespective of the amount of damages
20 suffered by the patient as a result of that violation, for an
21 administrative fine or civil penalty not to exceed two thousand
22 five hundred dollars ($2,500) per violation.
23 (2) (A) Any person or entity, other than a licensed health care
24 professional, who knowingly and willfully obtains, discloses, or
25 uses medical information in violation of this part shall be liable
26 for an administrative fine or civil penalty not to exceed twenty-five
27 thousand dollars ($25,000) per violation.
28 (B) Any licensed health care professional, who knowingly and
29 willfully obtains, discloses, or uses medical information in violation
30 of this part shall be liable on a first violation, for an administrative
31 fine or civil penalty not to exceed two thousand five hundred
32 dollars ($2,500) per violation, or on a second violation for an
33 administrative fine or civil penalty not to exceed ten thousand
34 dollars ($10,000) per violation, or on a third and subsequent
35 violation for an administrative fine or civil penalty not to exceed

twenty-five thousand dollars ($25,000) per violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(3) (A) Any person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first violation, for an administrative fine or civil penalty not to exceed five thousand dollars ($5,000) per violation, or on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(4) Nothing in this subdivision shall be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) Any person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the Office of Health Information Integrity, licensing agency, or certifying board or court shall consider any one or more of the relevant circumstances

presented by any of the parties to the case including, but not limited to, the following:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

(8) The defendant's assets, liabilities, and net worth.

(e) (1) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2012, the court shall award any actual damages and reasonable attorney's fees and costs, but may not award nominal damages, for a violation of this part if the defendant establishes all of the following as an affirmative defense:

(A) The defendant is a covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations.

(B) The defendant has complied with any obligations to notify all persons entitled to receive notice regarding the release of the information or records.

(C) The release of confidential information or records was solely to another covered entity.

(D) The defendant took appropriate preventive actions to protect the confidential information or records against release, retention, or use by any person or entity other than the covered entity that received the information or records, including, but not limited to:

(i) Developing and implementing security policies and procedures.

(ii) Designating a security official who is responsible for developing and implementing its security policies and procedures, including educating and training the workforce.

(iii) Encrypting the information or records, and protecting against the release or use of the encryption key and passwords, *or transmitting the information or records in a manner designed to provide similar protections against improper disclosures*.

(E) The defendant took appropriate corrective action after the release of the confidential records or information, and the covered entity that received the information or records immediately destroyed or returned the information or records.

(F) The covered entity that received the confidential information or records did not retain, use, or release the information or records.

(G) The defendant has not ~~previously violated this part, or, in the court's discretion, despite the prior violation,~~ *been found liable for a violation of this part within the three years preceding the alleged violation, or the court determines that* application of the affirmative defense is found to be compelling and consistent with the purposes of this section to promote reasonable conduct in light of all the facts.

(2) In an action under this subdivision, a plaintiff shall be entitled to recover reasonable attorney's fees and costs without regard to an award of actual or nominal damages.

(3) A defendant shall not be liable for more than one judgment on the merits for a violation of this subdivision.

(f) (1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) Any district attorney.

(C) Any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) Any city attorney of a city.

(E) Any city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county.

(G) The Director of the Office of Health Information Integrity may recommend that any person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in paragraph (3), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the

1 treasurer of the city in which the judgment was entered and one-half
2 to the treasurer of the county in which the judgment was entered.
3 (3) If the action is brought by a city attorney of a city and
4 county, the entire amount of the penalty collected shall be paid to
5 the treasurer of the city and county in which the judgment was
6 entered.
7 (4) Nothing in this section shall be construed as authorizing
8 both an administrative fine and civil penalty for the same violation.
9 (5) Imposition of a fine or penalty provided for in this section
10 shall not preclude imposition of any other sanctions or remedies
11 authorized by law.
12 (6) Administrative fines or penalties issued pursuant to Section
13 1280.15 of the Health and Safety Code shall offset any other
14 administrative fine or civil penalty imposed under this section for
15 the same violation.
16 (g) For purposes of this section, "knowing" and "willful" shall
17 have the same meanings as in Section 7 of the Penal Code.
18 (h) No person who discloses protected medical information in
19 accordance with the provisions of this part shall be subject to the
20 penalty provisions of this part.

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AGENDA ITEM 6

STATE OF CALIFORNIA
APPOINTMENT CALENDAR
STD. 101 (REV. 9/2010)

State Pay Period Calendar for 2011

JANUARY 2011
21 Days 168 Hours

SU	M	TU	W	TH	F	SA
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY 2011
21 Days 168 Hours

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	1				

MARCH 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL 2011
21 Days 168 Hours

SU	M	TU	W	TH	F	SA
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	1					

AUGUST 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
		2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

P/E/O

SEPTEMBER 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				1	2	3
4	5	6	B	B	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER 2011
21 Days 168 Hours

SU	M	TU	W	TH	F	SA
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

CONF

OTAC

INSCOT

CONF

NOVEMBER 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
		1	2	3	4	5
6	7	8	9	E/O	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

P

DECEMBER 2011
22 Days 176 Hours

SU	M	TU	W	TH	F	SA
				B	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOTE: Holidays and pay periods after July 1, 2010, are subject to any collective bargaining agreements negotiated in Fiscal Year 2010-2011 or thereafter.