## DISCUSSION AND POSSIBLE ACTION REGARDING PENDING LEGISLATION.

The following bill status report and/or bills are attached for review.

a) AB 171, Autism.
b) AB 386, Prisons: telehealth systems.
c) AB 374, Athletic trainers.
d) AB 439, Health care information.
e) AB 518, Elder and dependent adult abuse: mandated reporters.
f) AB 608, Telemedicine.
g) AB 783, Professional Corporations.
h) AB 800, Boards and Commissions: Time Reporting.
i) AB 958, Statute of limitations for disciplinary actions.
j) AB 1003, Professional and vocational licenses.
k) AB 1205, Licensed behavior analysts.
l) AB 1435, Child abuse reporting.
m) AB 1588, Professions and vocations: reservist licensees: fees and continuing education.
n) AB 1896, Tribal health programs: health care practitioners.
o) AB 1904, Professions and vocations: military spouses: temporary licenses.
p) AB 1932, United States armed services: healing arts boards.
q) AB 2458, Healing arts: health care practitioners.
r) AB 2570, Licensees: settlement agreements.
s) SB 399, Healing Arts: Advertising.
t) SB 462, Provides for certification of special education advocates.
u) SB 544, Professions and Vocations: Amendments to the Business and Professions Code, including the general provisions and the Occupational Therapy Practice Act.
v) SB 683, Early intervention services.
w) SB 770, Health care coverage: mental illness: developmental disorder and autism.
x) SB 924, Direct patient access to services and professional corporations.
y) SB 975, Professions and vocations: regulatory authority.
z) SB 1228, Small house skilled nursing facilities.
aa) SB 1274, Healing arts: hospitals: employment.
bb) SB 1327, State government: business information: Internet Web site.
cc) SB 1575, Professions and vocations.

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 : Pervasive developmental disorder or autism.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 01/23/2012

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

LAST HIST. ACT. DATE: 02/16/2012
LAST HIST. ACTION : Referred to Com. on HEALTH.
COMM. LOCATION : SEN HEALTH

TITLE : An act to add Section 1374.745 to the Health and Safety Code, and to add Section 10144.53 to the Insurance Code, relating to health care coverage.

AMENDED IN ASSEMBLY JANUARY 23, 2012

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~~ *1374.745* to the Health and Safety Code, and to add Section ~~10144.51~~ *10144.53* to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 171, as amended, Beall. ~~Autism spectrum disorder.~~ *Pervasive developmental disorder or autism.*

(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~~ *the* 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.~~ *coverage for the diagnosis and treatment of severe mental illnesses, including pervasive developmental disorder or autism, under the same terms and conditions applied to other medical conditions, as specified. Commencing July 1, 2012, and until July 1, 2014, existing law requires health care service*

*plan contracts and health insurance policies to provide coverage for behavioral health treatment, as defined, for pervasive developmental disorder or autism.*

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment, *other than behavioral health treatment,* of ~~autism spectrum disorders~~ *pervasive developmental disorder or autism.* 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~~ *that exceed the essential health benefits that will be required* under *specified* federal law. The bill would prohibit ~~coverage from being denied for specified reasons~~ *health care service plans and health insurers from denying, terminating, or refusing to renew coverage solely because the individual is diagnosed with or has received treatment for pervasive developmental disorder or autism.* 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~~ *1374.745* is added to the Health
2 and Safety Code, to read:
3 ~~1374.73.~~
4 *1374.745.* (a) Every health care service plan contract issued,
5 amended, or renewed on or after January 1, ~~2012~~ *2013*, that
6 provides hospital, medical, or surgical coverage shall provide
7 coverage for the screening, diagnosis, and treatment of ~~autism~~
8 ~~spectrum disorders.~~ *pervasive developmental disorder or autism.*
9 (b) A health care service plan shall not terminate coverage, or
10 refuse to deliver, execute, issue, amend, adjust, or renew coverage,
11 to an enrollee solely because the individual is diagnosed with, or

has received treatment for, ~~an autism spectrum disorder~~ *pervasive developmental disorder or autism.*

(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 enrollee than lifetime maximums, deductibles, copayments, or coinsurance or other terms and conditions that apply to physical illness generally under the plan contract.

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

(e) A health care service plan may request, no more than once annually, a review of treatment provided to an enrollee for ~~autism spectrum disorders~~ *pervasive developmental disorder or autism.* 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~~ *pervasive developmental disorder or autism* 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 *or excluding* benefits that are otherwise available to an enrollee under a health care service ~~plan.~~ *plan, including, but not limited to, benefits that are required to be covered pursuant to Sections 1374.72 and 1374.73.*

*(3) This section shall not be construed to mean that the services required to be covered pursuant to this section are not required to be covered under other provisions of this chapter.*

~~(3)~~

*(4)* 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.~~

*(h) Notwithstanding subdivision (a), on and after January 1, 2014, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide 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).*

(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)~~

*(1)* "Diagnosis of ~~autism spectrum disorders"~~ *pervasive developmental disorder or autism"* means medically necessary assessment, evaluations, or tests to diagnose whether an individual has ~~one of the autism spectrum disorders~~ *pervasive developmental disorder or autism.*

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

*(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.*

~~(6)~~

*(3)* "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)~~

*(4)* "Psychiatric care" means direct or consultative psychiatric services provided by a psychiatrist ~~or any other appropriately licensed or certified provider~~ *licensed in the state in which he or she practices.*

~~(8)~~

*(5)* "Psychological care" means direct or consultative psychological services provided by a psychologist ~~or any other appropriately licensed or certified provider~~ *licensed in the state in which he or she practices.*

~~(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).~~

~~(10)~~

*(6)* "Therapeutic care" means services provided by *a* licensed or certified speech ~~therapists~~ *therapist*, *an* occupational ~~therapists~~ *therapist*, or *a* physical ~~therapists or any other appropriately licensed or certified provider.~~ *therapist.*

~~(11)~~

*(7)* "Treatment for ~~autism spectrum disorders"~~ *pervasive developmental disorder or autism"* means all of the following care, including necessary equipment, *that develops, maintains, or restores to the maximum extent practicable the functioning or quality of life of an individual with pervasive developmental disorder or autism and is* prescribed or ordered for an individual diagnosed with ~~one of the autism spectrum disorders~~ *pervasive developmental disorder or autism* 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)~~

*(A)* Pharmacy care*, if the plan contract includes coverage for prescription drugs*.

~~(C)~~

*(B)* Psychiatric care.

~~(D)~~

*(C)* Psychological care.

~~(E)~~

*(D)* 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.~~

*(8) "Treatment for pervasive developmental disorder or autism" does not include behavioral health treatment, as defined in Section 1374.73.*

(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~~ *10144.53* is added to the Insurance Code, to read:

~~10144.51.~~

*10144.53.* (a) Every health insurance policy issued, amended, or renewed on or after January 1, ~~2012,~~ *2013,* that provides hospital, medical, or surgical coverage shall provide coverage for the screening, diagnosis, and treatment of ~~autism spectrum disorders~~ *pervasive developmental disorder or autism.*

(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~~ *pervasive developmental disorder or autism.*

(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 of the location of delivery of the treatment or* 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~~ *pervasive developmental disorder or autism*. 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~~ *pervasive developmental disorder or autism* 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 *or excluding* benefits that are otherwise available to an enrollee under a health insurance policy, *including, but not limited to, benefits that are required to be covered under Sections 10144.5 and 10144.51.*

*(3) This section shall not be construed to mean that the services required to be covered pursuant to this section are not required to be covered under other provisions of this chapter.*

~~(3)~~

*(4)* 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.~~

*(h) Notwithstanding subdivision (a), on and after January 1, 2014, this section does not require any benefits to be provided that exceed the essential health benefits that all health plans will be required by federal regulations to provide 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).*

(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)~~

*(1)* "Diagnosis of ~~autism spectrum disorders"~~ *pervasive developmental disorder or autism"* means medically necessary assessment, evaluations, or tests to diagnose whether an individual has ~~one of the autism spectrum disorders~~ *pervasive developmental disorder or autism.*

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

*(2) "Pervasive developmental disorder or autism" shall have the same meaning and interpretation as used in Section 1374.72.*

~~(6)~~

*(3)* "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)~~

*(4)* "Psychiatric care" means direct or consultative psychiatric services provided by a psychiatrist ~~or any other appropriately licensed or certified provider~~ *licensed in the state in which he or she practices.*

~~(8)~~

*(5)* "Psychological care" means direct or consultative psychological services provided by a psychologist ~~or any other appropriately licensed or certified provider~~ *licensed in the state in which he or she practices.*

~~(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).~~

~~(10)~~

*(6)* "Therapeutic care" means services provided by *a* licensed or certified speech ~~therapists~~ *therapist, an* occupational ~~therapists~~

*therapist*, or *a* physical ~~therapists or any other appropriately licensed or certified provider~~ *therapist*.

~~(11)~~

*(7)* "Treatment for ~~autism spectrum disorders"~~ *pervasive developmental disorder or autism"* means all of the following care, including necessary equipment, *that develops, maintains, or restores to the maximum extent practicable the functioning or quality of life of an individual with pervasive developmental disorder or autism and is* prescribed or ordered for an individual diagnosed with ~~one of the autism spectrum disorders~~ *pervasive developmental disorder or autism* 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)~~

*(A)* Pharmacy care*, if the policy includes coverage for prescription drugs*.

~~(C)~~

*(B)* Psychiatric care.

~~(D)~~

*(C)* Psychological care.

~~(E)~~

*(D)* 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.~~

*(8) "Treatment for pervasive developmental disorder or autism" does not include behavioral health treatment, as defined in Section 10144.51.*

(j) This section, with the exception of subdivision (b), shall not apply to dental-only or vision-only health insurance policies.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

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.

CURRENT BILL STATUS

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

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

LAST HIST. ACT. DATE: 02/01/2012
LAST HIST. ACTION : Died pursuant to Art. IV, Sec. 10(c) of the Constitution. From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.
COMM. LOCATION : ASM APPROPRIATIONS

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

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. Held without recommendation.
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

1 twenty-five thousand dollars ($25,000) per violation. Nothing in
2 this subdivision shall be construed to limit the liability of a health
3 care service plan, a contractor, or a provider of health care that is
4 not a licensed health care professional for any violation of this
5 part.
6 (3) (A) Any person or entity, other than a licensed health care
7 professional, who knowingly or willfully obtains or uses medical
8 information in violation of this part for the purpose of financial
9 gain shall be liable for an administrative fine or civil penalty not
10 to exceed two hundred fifty thousand dollars ($250,000) per
11 violation and shall also be subject to disgorgement of any proceeds
12 or other consideration obtained as a result of the violation.
13 (B) Any licensed health care professional, who knowingly and
14 willfully obtains, discloses, or uses medical information in violation
15 of this part for financial gain shall be liable on a first violation, for
16 an administrative fine or civil penalty not to exceed five thousand
17 dollars ($5,000) per violation, or on a second violation for an
18 administrative fine or civil penalty not to exceed twenty-five
19 thousand dollars ($25,000) per violation, or on a third and
20 subsequent violation for an administrative fine or civil penalty not
21 to exceed two hundred fifty thousand dollars ($250,000) per
22 violation and shall also be subject to disgorgement of any proceeds
23 or other consideration obtained as a result of the violation. Nothing
24 in this subdivision shall be construed to limit the liability of a
25 health care service plan, a contractor, or a provider of health care
26 that is not a licensed health care professional for any violation of
27 this part.
28 (4) Nothing in this subdivision shall be construed as authorizing
29 an administrative fine or civil penalty under both paragraphs (2)
30 and (3) for the same violation.
31 (5) Any person or entity who is not permitted to receive medical
32 information pursuant to this part and who knowingly and willfully
33 obtains, discloses, or uses medical information without written
34 authorization from the patient shall be liable for a civil penalty not
35 to exceed two hundred fifty thousand dollars ($250,000) per
36 violation.
37 (d) In assessing the amount of an administrative fine or civil
38 penalty pursuant to subdivision (c), the Office of Health
39 Information Integrity, licensing agency, or certifying board or
40 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.

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.~~

~~(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 elder or dependent adult abuse 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.~~

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

*SEC. 5. Section 15634 of the Welfare and Institutions Code, as amended by Section 7 of Chapter 140 of the Statutes of 2005, is amended to read:*

15634. (a) No care custodian, clergy member, health practitioner, mandated reporter of suspected financial abuse of an elder or dependent adult, or employee of an adult protective services agency or a local law enforcement agency who reports a known or suspected instance of abuse of an elder or dependent adult shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of abuse of an elder or dependent adult shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of abuse of an elder or dependent adult or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, mandated reporter of suspected financial abuse of an elder or dependent adult, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected abuse of an elder or dependent adult, provides the requesting agency with access to the victim of a known or suspected instance of abuse of an elder or dependent adult, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report abuse of an elder or dependent adult, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* a claim for reasonable ~~attorneys'~~ *attorney's* fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. ~~Attorneys'~~ *Attorney's* fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

~~(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. 6. Section 15634 of the Welfare and Institutions Code, as amended by Section 711 of Chapter 538 of the Statutes of 2006, is repealed.*

~~15634. (a) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who reports a known or suspected instance of elder or dependent adult abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of elder or dependent adult abuse shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of elder or dependent adult abuse or causing photographs to be taken of the suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.~~

~~(b) No care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected elder or dependent adult abuse, provides the requesting agency with access to the victim of a known or suspected instance of elder or dependent adult abuse, shall incur civil or criminal liability as a result of providing that access.~~

~~(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report elder or dependent adult abuse, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or employee of an adult protective services agency or a local law~~

~~enforcement agency may present to the California Victim Compensation and Government Claims Board a claim for reasonable attorney's fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The California Victim Compensation and Government Claims Board shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars ($50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.~~

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

*SEC. 7. Section 15640 of the Welfare and Institutions Code, as amended by Section 9 of Chapter 140 of the Statutes of 2005, is amended to read:*

15640. (a) (1) An adult protective services agency shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case any known or suspected instance of criminal activity, and to any public agency given responsibility for investigation in that jurisdiction of cases of elder and dependent adult abuse, every known or suspected instance of abuse pursuant to Section 15630 or 15630.1 of an elder or dependent adult. A county adult protective services agency shall also send a written report thereof within two working days of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision. Prior to making any cross-report of allegations of financial abuse to law enforcement agencies, an adult protective services agency shall first determine whether there is reasonable suspicion of any criminal activity.

(2) If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that he or she is required to make the report to the long-term care ombudsman program or to a local law

enforcement agency. The adult protective services agency shall not accept the report by telephone but shall forward any written report received to the long-term care ombudsman.

(b) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed.

(c) A local law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the long-term care ombudsman program when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or dependent adult. A local law enforcement agency shall also send a written report thereof within two working days of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

(d) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives his or her consent. A long-term care ombudsman program and the Licensing and Certification Division of the State Department of ~~Health Services~~ *Public Health* shall immediately report by telephone and in writing

within two working days to the bureau any instance of neglect occurring in a health care facility, that has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical well-being of a patient in that facility. If a victim or potential victim of the neglect withholds consent to being identified in that report, the report shall contain circumstantial information about the neglect but shall not identify that victim or potential victim and the bureau and the reporting agency shall maintain the confidentiality of the report until the report becomes a matter of public record.

(e) When a county adult protective services agency, a long-term care ombudsman program, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.

(f) County adult protective services agencies, long-term care ombudsman programs, and local law enforcement agencies shall report the results of their investigations of referrals or reports of abuse to the respective referring or reporting agencies.

~~(g) 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. 8. Section 15640 of the Welfare and Institutions Code, as added by Section 10 of Chapter 140 of the Statutes of 2005, is repealed.*

~~15640. (a) (1) An adult protective services agency shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case any known or suspected instance of criminal activity, and to any public agency given responsibility for investigation in that jurisdiction of cases of elder and dependent adult abuse, every known or suspected instance of abuse pursuant to Section 15630 of an elder or dependent adult. A county adult protective services agency shall also send a written report thereof within two working days of receiving the information concerning the incident to each agency to which it is required to make a telephone report under this subdivision. Prior to making any cross-report of allegations~~

~~of financial abuse to law enforcement agencies, an adult protective services agency shall first determine whether there is reasonable suspicion of any criminal activity.~~

~~(2) If an adult protective services agency receives a report of abuse alleged to have occurred in a long-term care facility, that adult protective services agency shall immediately inform the person making the report that he or she is required to make the report to the long-term care ombudsman program or to a local law enforcement agency. The adult protective services agency shall not accept the report by telephone but shall forward any written report received to the long-term care ombudsman.~~

~~(b) If an adult protective services agency or local law enforcement agency or ombudsman program receiving a report of known or suspected elder or dependent adult abuse determines, pursuant to its investigation, that the abuse is being committed by a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related initiative act, or by a person purporting to be a licensee, the adult protective services agency or local law enforcement agency or ombudsman program shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency. The licensing agency shall investigate the report in light of the potential for physical harm. The transmittal of information to the appropriate licensing agency shall not relieve the adult protective services agency or local law enforcement agency or ombudsman program of the responsibility to continue its own investigation as required under applicable provisions of law. The information reported pursuant to this paragraph shall remain confidential and shall not be disclosed.~~

~~(c) A local law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the long-term care ombudsman program when the abuse is alleged to have occurred in a long-term care facility or to the county adult protective services agency when it is alleged to have occurred anywhere else, and to the agency given responsibility for the investigation of cases of elder and dependent adult abuse every known or suspected instance of abuse of an elder or dependent adult. A local law enforcement agency shall also send a written report thereof within two working days of receiving the information~~

~~concerning the incident to any agency to which it is required to make a telephone report under this subdivision.~~

~~(d) A long-term care ombudsman coordinator may report the instance of abuse to the county adult protective services agency or to the local law enforcement agency for assistance in the investigation of the abuse if the victim gives his or her consent. A long-term care ombudsman program and the Licensing and Certification Division of the State Department of Health Services shall immediately report by telephone and in writing within two working days to the bureau any instance of neglect occurring in a health care facility, that has seriously harmed any patient or reasonably appears to present a serious threat to the health or physical well-being of a patient in that facility. If a victim or potential victim of the neglect withholds consent to being identified in that report, the report shall contain circumstantial information about the neglect but shall not identify that victim or potential victim and the bureau and the reporting agency shall maintain the confidentiality of the report until the report becomes a matter of public record.~~

~~(e) When a county adult protective services agency, a long-term care ombudsman program, or a local law enforcement agency receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, that county adult protective services agency, long-term care ombudsman coordinator, or local law enforcement agency shall report the incident to the licensing agency by telephone as soon as possible.~~

~~(f) County adult protective services agencies, long-term care ombudsman programs, and local law enforcement agencies shall report the results of their investigations of referrals or reports of abuse to the respective referring or reporting agencies.~~

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

*SEC. 9. Section 15655.5 of the Welfare and Institutions Code, as amended by Section 11 of Chapter 140 of the Statutes of 2005, is amended to read:*

15655.5. A county adult protective services agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17, and mandated reporters of suspected financial abuse of an elder or dependent adult pursuant to Section 15630.1, with instructional materials regarding abuse and neglect of an elder

or dependent adult and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:

(a) An explanation of abuse and neglect of an elder or dependent adult, as defined in this chapter.

(b) Information on how to recognize potential abuse and neglect of an elder or dependent adult.

(c) Information on how the county adult protective services agency investigates reports of known or suspected abuse and neglect.

(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective services agency with its investigation of the report.

~~(e) 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. 10. Section 15655.5 of the Welfare and Institutions Code, as amended by Section 712 of Chapter 538 of the Statutes of 2006, is repealed.*

~~15655.5. A county adult protective services agency shall provide the organizations listed in paragraphs (v), (w), and (x) of Section 15610.17 with instructional materials regarding elder and dependent adult abuse and neglect and their obligation to report under this chapter. At a minimum, the instructional materials shall include the following:~~

~~(a) An explanation of elder and dependent adult abuse and neglect, as defined in this chapter.~~

~~(b) Information on how to recognize potential elder and dependent adult abuse and neglect.~~

~~(c) Information on how the county adult protective services agency investigates reports of known or suspected abuse and neglect.~~

~~(d) Instructions on how to report known or suspected incidents of abuse and neglect, including the appropriate telephone numbers to call and what types of information would assist the county adult protective services agency with its investigation of the report.~~

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

O

CURRENT BILL STATUS

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

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: 02/01/2012
LAST HIST. ACTION : Died at Desk.

TITLE : An act relating to health care.

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 : In committee: Set, second hearing. Failed passage. 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.

1 (10) Naturopathic doctors.
2 (g) Marriage and family therapy corporation.
3 (1) Licensed physicians and surgeons.
4 (2) Licensed psychologists.
5 (3) Licensed clinical social workers.
6 (4) Registered nurses.
7 (5) Licensed chiropractors.
8 (6) Licensed acupuncturists.
9 (7) Naturopathic doctors.
10 (h) Licensed clinical social worker corporation.
11 (1) Licensed physicians and surgeons.
12 (2) Licensed psychologists.
13 (3) Licensed marriage and family therapists.
14 (4) Registered nurses.
15 (5) Licensed chiropractors.
16 (6) Licensed acupuncturists.
17 (7) Naturopathic doctors.
18 (i) Physician assistants corporation.
19 (1) Licensed physicians and surgeons.
20 (2) Registered nurses.
21 (3) Licensed acupuncturists.
22 (4) Naturopathic doctors.
23 (j) Optometric corporation.
24 (1) Licensed physicians and surgeons.
25 (2) Licensed doctors of podiatric medicine.
26 (3) Licensed psychologists.
27 (4) Registered nurses.
28 (5) Licensed chiropractors.
29 (6) Licensed acupuncturists.
30 (7) Naturopathic doctors.
31 (k) Chiropractic corporation.
32 (1) Licensed physicians and surgeons.
33 (2) Licensed doctors of podiatric medicine.
34 (3) Licensed psychologists.
35 (4) Registered nurses.
36 (5) Licensed optometrists.
37 (6) Licensed marriage and family therapists.
38 (7) Licensed clinical social workers.
39 (8) Licensed acupuncturists.
40 (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.

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

LAST HIST. ACT. DATE: 02/01/2012
LAST HIST. ACTION : Died pursuant to Art. IV, Sec. 10(c) of the Constitution. From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.
COMM. LOCATION : ASM APPROPRIATIONS

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

CURRENT BILL STATUS

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

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

LAST HIST. ACT. DATE: 02/01/2012
LAST HIST. ACTION : Died pursuant to Art. IV, Sec. 10(c) of the Constitution. From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.
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.

CURRENT BILL STATUS

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

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: 02/01/2012
LAST HIST. ACTION : Died at Desk.

TITLE : An act relating to professional and vocational licenses.

CURRENT BILL STATUS

MEASURE : A.B. No. 1205
AUTHOR(S) : Bill Berryhill.
TOPIC : Licensed behavior analysts.
+LAST AMENDED DATE : 04/04/2011

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

LAST HIST. ACT. DATE: 02/01/2012
LAST HIST. ACTION : Died pursuant to Art. IV, Sec. 10(c) of the Constitution. From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to amend Section 4990.18 of, and to add Chapter 5.2 (commencing with Section 2529.7.1) to Division 2 of, the Business and Professions Code, relating to healing arts.

CURRENT BILL STATUS

MEASURE : A.B. No. 1435
AUTHOR(S) : Dickinson (Coauthors: Alejo, Buchanan, and Hill).
TOPIC : Child abuse reporting: athletic personnel.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/25/2012

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

LAST HIST. ACT. DATE: 05/31/2012
LAST HIST. ACTION : In Senate. Read first time. To Com. on RLS. for assignment.
COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 05/25/2012
COMM. ACTION : Do pass as amended.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MARCH 21, 2012

AMENDED IN ASSEMBLY MARCH 14, 2012

AMENDED IN ASSEMBLY FEBRUARY 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

# ASSEMBLY BILL No. 1435

**Introduced by Assembly Member Dickinson**
**(Coauthors: Assembly Members Alejo, Buchanan, and Hill)**

January 4, 2012

An act to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 1435, as amended, Dickinson. Child abuse reporting: athletic personnel.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of up to 6 months, a fine of up to $1,000, or by both that imprisonment and fine.

This bill would add athletic coaches, athletic administrators, and athletic directors employed by a public or private organization to the list of individuals who are mandated reporters. ~~The bill would require any public or private organization employing an athletic coach, athletic~~

~~administrator, or athletic director to have provided initial training, by January 1, 2014, on specified matters relating to child abuse and neglect for those employees. On and after January 1, 2014, the bill would require initial training to be provided within 6 months of the date an individual becomes employed in that capacity. The bill would require these individuals to complete continuing training every 2 years.~~

By imposing the reporting requirements on a new class of persons, for whom failure to report specified conduct is a crime, ~~and by imposing new training requirements on public organizations, including local government entities,~~ this bill 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 with regard to certain mandates 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.~~

*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 11165.7 of the Penal Code is amended
2 to read:
3 11165.7. (a) As used in this article, "mandated reporter" is
4 defined as any of the following:
5 (1) A teacher.
6 (2) An instructional aide.
7 (3) A teacher's aide or teacher's assistant employed by any
8 public or private school.
9 (4) A classified employee of any public school.

(5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.

(6) An administrator of a public or private day camp.

(7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

(9) Any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis.

(10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.

(11) A Head Start program teacher.

(12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.

(13) A public assistance worker.

(14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

(15) A social worker, probation officer, or parole officer.

(16) An employee of a school district police or security department.

(17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who

is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner, or any other person who performs autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.

(31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is

qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the California Rules of Court.

(36) A custodial officer as defined in Section 831.5.

(37) Any person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not in and of itself a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An athletic coach, athletic administrator, or athletic director employed by a public or private organization, including, but not limited to, schools ~~and institutions of higher education~~ *that provide kindergarten or any of grades 1 to 12, inclusive.*

(b) Except as provided in paragraph (35) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties

imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

~~(g) (1) On or before January 1, 2014, any public or private organizationemploying an athletic coach, athletic administrator, or athletic director, as specified in paragraph (41) of subdivision (a), shall provide initial training for those employees on the following matters:~~

~~(A) The identification of child abuse and neglect.~~

~~(B) Activities that constitute inappropriate and illegal contact between a youth and an athletic coach, athletic administrator, or athletic director.~~

~~(C) The responsibilities of a person identified as a mandated reporter in this section, including, but not limited to, all of the following:~~

~~(i) To whom a report is required to be made.~~

~~(ii) The information that is required to be included in a report.~~

~~(iii) The time within which a mandated reporter is required to file a report.~~

~~(2) Initial training shall be provided by persons knowledgeable in the identification of child abuse and neglect, inappropriate and illegal contact between a youth and an adult, and statutory reporting requirements, and shall consist of two hours of classroom or other interactive training and education.~~

~~(h) Commencing on and after January 1, 2014, an organization specified in subdivision (g) shall provide initial training within six months of the date that an individual becomes employed as an athletic coach, athletic administrator, or athletic director unless the individual received training within two years prior to the date the individual is employed. An athletic coach, athletic administrator, or athletic director who has received initial training pursuant to subdivision (g) shall complete continuing training thereafter, once every two years, consisting of one hour of classroom or other interactive training and education.~~

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

~~However, if the Commission on State Mandates determines that this act contains other 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.~~

*SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

O

CURRENT BILL STATUS

MEASURE : A.B. No. 1904
AUTHOR(S) : Block, Butler, and Cook.
TOPIC : Professions and vocations: military spouses: temporary licenses.
HOUSE LOCATION : SEN

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

LAST HIST. ACT. DATE: 05/29/2012
LAST HIST. ACTION : In Senate. Read first time. To Com. on RLS. for assignment.
COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 05/25/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to add Section 115.5 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

CURRENT BILL STATUS

MEASURE : A.B. No. 1588
AUTHOR(S) : Atkins (Principal coauthors: Cook and Nielsen) (Coauthors: Block, Beth Gaines, Pan, V. Manuel Pérez, Williams, and Yamada).
TOPIC : Professions and vocations: reservist licensees: fees and continuing education.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 03/05/2012

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

LAST HIST. ACT. DATE: 05/31/2012
LAST HIST. ACTION : In Senate. Read first time. To Com. on RLS. for assignment.
COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 05/25/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to add Section 114.3 to the Business and Professions Code, relating to professions and vocations.

AMENDED IN ASSEMBLY MARCH 5, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

# ASSEMBLY BILL No. 1588

**Introduced by Assembly Member Atkins**
**(Principal coauthors: Assembly Members Cook and Nielsen)**
**(Coauthors: Assembly Members Block, Beth Gaines, Pan, V. Manuel Pérez, Williams, and Yamada)**

February 6, 2012

An act to add Section 114.3 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1588, as amended, Atkins. Professions and vocations: reservist licensees: fees and continuing education.

Existing law provides for the regulation of various professions and vocations by boards, *commissions, or bureaus* within the Department of Consumer Affairs and for the licensure *or registration* of individuals in that regard. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met.

This bill would require the boards, *commissions, or bureaus* described above to waive the renewal fees and continuing education requirements, if either is applicable, of any licensee *or registrant* who is a reservist called to active duty as a member of the United States Military Reserve or the California National Guard if certain requirements are met.

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 114.3 is added to the Business and
2 Professions Code, to read:
3 114.3. Notwithstanding any other provision of law, every board,
4 *commission, or bureau within the department* shall waive the
5 renewal fees and continuing education requirements, if either is
6 applicable, for any licensee *or registrant* who is a reservist called
7 to active duty as a member of the United States Military Reserve
8 or the California National Guard if all of the following
9 requirements are met:
10 (a) The licensee *or registrant* was in good standing with the
11 board, *commission, or bureau* at the time the reservist was called
12 to active duty.
13 (b) The renewal fees or continuing education requirements are
14 waived only for the period during which the reservist is on active
15 duty service.
16 (c) The active duty reservist, or the active duty reservist's spouse
17 or registered domestic partner, provides written notice satisfactory
18 to the board, *commission, or bureau* that substantiates the
19 reservist's active duty service.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 1896
AUTHOR(S) : Chesbro.
TOPIC : Tribal health programs: health care practitioners.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 03/27/2012

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: 05/17/2012
LAST HIST. ACTION : Referred to Com. on B., P. & E.D.
COMM. LOCATION : ASM BUSINESS, PROFESSIONS AND CONSUMER PROTECTION
COMM. ACTION DATE : 04/10/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 09 Noes: 00PASS

TITLE : An act to amend the heading of Article 10 (commencing with Section 710) of Chapter 1 of Division 2 of, and to add Section 719 to, the Business and Professions Code, relating to healing arts.

AMENDED IN ASSEMBLY MARCH 27, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

# ASSEMBLY BILL No. 1896

**Introduced by Assembly Member Chesbro**

February 22, 2012

An act to amend the heading of Article 10 (commencing with Section 710) of Chapter 1 of Division 2 of, and to add Section 719 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1896, as amended, Chesbro. Tribal health programs: health care practitioners.

Under existing federal law, licensed health professionals employed by a tribal health program are required to be exempt, if licensed in any state, from the licensing requirements of the state in which the tribal health program performs specified services. A tribal health program is defined as an Indian tribe or tribal organization that operates any health program, service, function, activity, or facility funded, in whole or part, by the Indian Health Service.

Existing law provides for the licensure and regulation of health care practitioners by various healing arts boards *within the Department of Consumer Affairs*.

This bill would codify that federal requirement by specifying that a *person who is licensed as a* health care practitioner *in any other state and is* employed by a tribal health program is exempt from any state licensing requirement *with respect to acts authorized under the person's license* where the tribal health program performs specified services.

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. The heading of Article 10 (commencing with
2 Section 710) of Chapter 1 of Division 2 of the Business and
3 Professions Code is amended to read:
4
5 Article 10. Federal Personnel and Tribal Health Programs
6
7 SEC. 2. Section 719 is added to the Business and Professions
8 Code, to read:
9 719. (a) A *person who is licensed as a* health care practitioner
10 *in any other state and is* employed by a tribal health program, as
11 defined in Section 1603 of Title 25 of the United States Code, shall
12 be exempt from any licensing requirement described in this division
13 *with respect to acts authorized under the person's license* where
14 the tribal health program performs the services described in the
15 contract or compact of the tribal health program under the Indian
16 Self-Determination and Education Assistance Act (25 U.S.C. Sec.
17 450 et seq.).
18 (b) For purposes of this section, "health care practitioner" means
19 any person who engages in acts that are the subject of licensure
20 or regulation under ~~this division or any initiative act referred to in~~
21 ~~this division~~ *the law of any other state.*

O

# ASSEMBLY BILL No. 1904

**Introduced by Assembly Members Block, Butler, and Cook**

February 22, 2012

An act to add Section 115.5 to the Business and Professions Code, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1904, as introduced, Block. Professions and vocations: military spouses: temporary licenses.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law provides for the issuance of reciprocal licenses in certain fields where the applicant, among other requirements, has a license to practice within that field in another jurisdiction, as specified. Under existing law, licensing fees imposed by certain boards within the department are deposited in funds that are continuously appropriated.

This bill would authorize a board within the department to issue a temporary license to an applicant who, among other requirements, holds an equivalent license in another jurisdiction, as specified, and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders. The bill would require a board to expedite the process for issuing these temporary licenses. The bill would require the applicant to pay any fees required by the board and would require that those fees be deposited in the fund used by the board to administer its licensing program. To the extent that the bill would

increase the amount of money deposited into a continuously appropriated fund, the bill would make an appropriation.

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

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

1 SECTION 1. Section 115.5 is added to the Business and
2 Professions Code, to read:
3 115.5. (a) A board within the department may issue a
4 temporary license to an applicant who meets all of the following
5 requirements:
6 (1) Submits an application in the manner prescribed by the
7 board.
8 (2) Supplies evidence satisfactory to the board that the applicant
9 is married to, or in a domestic partnership or other legal union
10 with, an active duty member of the Armed Forces of the United
11 States who is assigned to a duty station in this state under official
12 active duty military orders.
13 (3) Holds a current license in another state, district, or territory
14 of the United States with the requirements that the board determines
15 are substantially equivalent to those established under this code
16 for that occupation.
17 (4) Has not committed an act in any jurisdiction that would have
18 constituted grounds for denial, suspension, or revocation of the
19 license under this code at the time the act was committed.
20 (5) Has not been disciplined by a licensing entity in another
21 jurisdiction and is not the subject of an unresolved complaint,
22 review procedure, or disciplinary proceeding conducted by a
23 licensing entity in another jurisdiction.
24 (6) Pays any fees required by the board. Those fees shall be
25 deposited in the applicable fund or account used by the board to
26 administer its licensing program.
27 (7) Submits fingerprints and any applicable fingerprinting fee
28 in the manner required of an applicant for a regular license.
29 (b) A board shall expedite the procedure for issuing a temporary
30 license pursuant to this section.
31 (c) A temporary license issued under this section shall be valid
32 for 180 days, except that the license may, at the discretion of the

1 board, be extended for an additional 180-day period on application
2 of the license holder.
3 (d) A board may adopt regulations necessary to administer this
4 section.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 1932
AUTHOR(S) : Gorell (Coauthor: Cook).
TOPIC : United States armed services: healing arts boards.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 04/17/2012

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

LAST HIST. ACT. DATE: 05/29/2012
LAST HIST. ACTION : In Senate. Read first time. To Com. on RLS. for assignment.
COMM. LOCATION : ASM APPROPRIATIONS
COMM. ACTION DATE : 05/25/2012
COMM. ACTION : Do pass.
COMM. VOTE SUMMARY : Ayes: 17 Noes: 00PASS

TITLE : An act to add Section 710.2 to the Business and Professions Code, relating to healing arts.

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

# ASSEMBLY BILL No. 1932

**Introduced by Assembly Member ~~Cook~~ *Gorell***
***(Coauthor: Assembly Member Cook)***

February 22, 2012

An act to add Section 710.2 to the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1932, as amended, ~~Cook~~ *Gorell.* United States armed services: healing arts boards.

Existing law provides for the licensure and regulation of various healing arts professions and vocations by boards within the Department of Consumer Affairs. Existing law requires the rules and regulations of these healing arts boards to provide for methods of evaluating education, training, and experience obtained in military service if such training is applicable to the requirements of the particular profession or vocation regulated by the board. Under existing law, the Department of Veterans Affairs has specified powers and duties relating to various programs serving veterans.

This bill would require, by January 1, 2014, and annually thereafter, every healing arts board to issue a specified written report to the Department of Veterans Affairs *and the Legislature, as specified,* that clearly details the methods of evaluating the education, training, and experience obtained in military service and whether that education, training, and experience is applicable to the board's requirements for licensure. The bill would declare the intent of the Legislature in this regard.

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 710 of the Business and Professions Code
2 was enacted in 1969 and because healing arts boards have not
3 demonstrated significant compliance with that section, it is the
4 intent of the Legislature to establish an annual reporting
5 requirement to compel these boards to provide information about
6 the methods of evaluating education, training, and experience
7 obtained in military service in order to meet the needs of the
8 upcoming wave of armed service members returning to civilian
9 life.
10 SEC. 2. Section 710.2 is added to the Business and Professions
11 Code, to read:
12 710.2. *(a)* By January 1, 2014, and annually thereafter, every
13 healing arts board described in this division shall issue a written
14 report to the Department of Veterans Affairs *and to the Legislature*
15 that clearly details the methods of evaluating the education,
16 training, and experience obtained in military service and whether
17 that education, training, and experience is applicable to the board's
18 requirements for licensure. This written report shall include, but
19 not be limited to, quantitative information about the number of
20 service members who have applied for and have used their military
21 education, training, and experience to fulfill the board's
22 requirements for licensure.
23 *(b) (1) The requirement to submit a report to the Legislature*
24 *under subdivision (a) shall be inoperative on January 1, 2018,*
25 *pursuant to Section 10231.5 of the Government Code.*
26 *(2) A report to the Legislature shall be submitted in compliance*
27 *with Section 9795 of the Government Code.*

O